STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. M-100, SUB 148

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of The Federal Tax Cuts and Jobs Act	))))	ORDER ADDRESSING THE IMPACTS OF THE FEDERAL TAX CUTS AND JOBS ACT ON PUBLIC UTILITIES

BY THE COMMISSION: On December 22, 2017, President Donald J. Trump signed into law the Tax Cuts and Jobs Act (the Federal Tax Cuts and Jobs Act or the Tax Act). Among other provisions that are contained in this tax reform are provisions that will upon implementation reduce the tax rate of most, if not all, investor-owned public utilities providing services in North Carolina. Specifically, the new federal legislation reduces the federal corporate income tax rate from 35% to 21%, effective for taxable years beginning after December 31, 2017. This reduced tax rate when effectuated will have an immediate and favorable impact on the cost of providing the aforementioned public utility services to consumers in North Carolina.

On January 3, 2018, the Commission issued an Order Ruling That Certain Components of Certain Public Utility Rates Are Provisional as of January 1, 2018, Initiating a Generic Proceeding, and Requesting Comments in response to the Federal Tax Cuts and Jobs Act (the Order). The Order concluded that each and every public utility subject to the provisions of the Order were placed on notice that the federal corporate income tax expense component of all existing rates and charges, effective January 1, 2018, would be billed and collected on a provisional rate basis pending further investigation and disposition of this matter by the Commission, with accompanying deferred accounting for the amount of reduced rates. The Commission further specifically found it appropriate to exclude any water and/or wastewater public utility with $250,000 or less in annual operating revenues from the directives of the Order.

In addition, the Commission requested comments and reply comments in regard to how the Commission should proceed in response to the enactment of the Federal Tax Cuts and Jobs Act. Also in the Order, the following companies were specifically requested to file initial comments: Duke Energy Carolinas, LLC (DEC); Duke Energy Progress, Inc. (DEP); Virginia Electric and Power Company, d/b/a Dominion Energy North Carolina (DENC); Piedmont Natural Gas Company, Inc. (Piedmont); Public Service Company of North Carolina, Inc. d/b/a PSNC Energy (PSNC); Frontier Natural Gas Company, LLC (Frontier); Toccoa Natural Gas (Toccoa); Aqua North Carolina, Inc. (Aqua); and Utilities, Inc. (hereinafter collectively referred to as the Utilities). Additionally, the North Carolina

Utilities Commission - Public Staff (Public Staff) was requested to file initial comments, and other interested parties were encouraged to file comments.

The Commission requested that the Utilities include the following information in their initial comments:

(1) the estimated annual cost-of-service effect, on an item-by-item basis, of the changes to the levels of income tax expenses expected due to the enactment of the Federal Tax Cuts and Jobs Act. Please show the amount of each change and the related levels of tax expense before and after each change. Such information is to be presented on an NCUC jurisdictional basis (e.g., on a NC retail or NC intrastate basis, as appropriate); and

(2) a complete detailed narrative explanation of how the Utility proposes to account for and treat excess deferred income taxes that were accrued in earlier years under federal corporate income tax rates that were in excess of those set forth in the Federal Tax Cuts and Jobs Act.

The following parties filed a timely petition to intervene in this docket, and, by Order, the Commission granted each petition to intervene: Cardinal Pipeline Company, LLC (Cardinal), the Carolina Industrial Groups for Fair Utility Rates (CIGFUR), the Carolina Utility Customers Association, Inc. (CUCA) (along with its initial comments), the North Carolina Justice Center and the North Carolina Housing Coalition (jointly the Low-Income Advocates), and the North Carolina Sustainable Energy Association (NCSEA).

On January 12, 2018, the Attorney General filed its Notice of Intervention pursuant to N.C. Gen. Stat. § 62-20.

Toccoa filed its initial comments on January 24, 2018. On February 1, 2018, the following parties filed initial comments: the Attorney General, Aqua, Carolina Water Service, Inc. of North Carolina (CWSNC), CIGFUR, DEC and DEP (jointly, DEC/DEP), DENC, Frontier, the Low-Income Advocates, Piedmont, PSNC, and the Public Staff.

On February 9, 2018, Nucor Steel-Hertford (Nucor) filed a Petition to Intervene Out-of-Time.

On February 13, 2018, the Attorney General filed a Motion for Extension of Time to File Reply Comments. In its Motion, the Attorney General requested an extension of time for all parties to file reply comments by no later than February 20, 2018.

By Order dated February 14, 2018, the Commission granted the Attorney General's Motion for Extension of Time to File Reply Comments.

On February 16, 2018, the Commission issued an Order Allowing Petition to Intervene Out-of-Time for Nucor.

On February 20, 2018, the Attorney General, CIGFUR, DEC/DEP, DENC, the Low-Income Advocates, Nucor, Piedmont, and the Public Staff filed reply comments.

On February 28, 2018, the Public Staff filed its Clarification to Reply Comments.

On March 1, 2018, DEC/DEP filed Supplemental Comments taking into consideration the Commission's February 23, 2018 DEP rate case order and the reply comments of the parties.

On March 2, 2018, the Public Staff filed a letter concerning DEC/DEP's March 1, 2018 Supplemental Comments.

On March 27, 2018, DEP filed Supplemental Comments.

On April 3, 2018, the Public Staff filed a letter to address DEP's March 27, 2018 Supplemental Comments.

On April 6, 2018, CWSNC filed a Procedural Request Regarding Implementation of the Federal Tax Cuts and Jobs Act in this generic docket and Docket No. W-354, Sub 360.

On June 22, 2018, the Commission issued its Order Accepting Stipulation, Deciding Contested Issues, and Requiring Revenue Reduction in DEC's rate case proceeding (Docket No. E-7, Sub 1146) wherein the Commission addressed most of the impacts of the Tax Act on DEC.

INITIAL COMMENTS

Electric Utilities

DEC/DEP maintained that it is the Companies' intent that customers will receive the benefits of tax reform. DEC/DEP stated that they propose to accomplish this with solutions that will lower customer bills in the near-term, help mitigate volatility due to future rate increases, and protect the Companies' current credit quality for the benefit of customers. DEC/DEP asserted that they have worked diligently and successfully over the years to serve their customers while maintaining strong balance sheets to support and fund their obligations. DEC/DEP opined that a solid financial foundation has helped the Companies keep customers' rates significantly below the national average for many decades, all while providing safe, reliable and increasingly clean energy for North Carolina.

DEC/DEP asserted that electric utilities are one of the most capital intensive industries in the country and that, in part, is why utilities are heavily regulated. DEC/DEP noted that the Companies invest in infrastructure not because of federal tax policy, but because it is critical, necessary and often legally required that they do so. DEC/DEP stated that their statutory obligation to serve requires the financial wherewithal to support the commitments to their customers on a reliable and cost-effective basis at all times. DEC/DEP maintained that credit quality drives access to affordable capital, and for this reason it is in the best interest of customers to prevent a weakening of the Companies' cash flows and credit quality from pre-Tax Act levels. DEC/DEP stated that as they continue to modernize the energy grid, avoid and reduce outages through new technology, help customers become even more energy efficient through the deployment of advanced metering and technology infrastructure, increase the ability of the grid to connect more distributed and renewable energy resources, and overall transform the customer experience, the need to maintain much-needed cash flow and a strong balance sheet are more important than ever.

DEC/DEP stated that recent federal tax reform provides the Commission with a unique opportunity to help reduce and smooth out volatility in customer rates over the short- and long-term, while maintaining the Companies' pre-Tax Act credit quality and the ability to provide safe, reliable and affordable energy. DEC/DEP asserted that the Commission has substantial discretion in its ratemaking treatment of these tax changes and specifically noted the North Carolina Supreme Court decision in State ex rel. Utilities Comm'n v. Nantahala Power and Light Co., 326 N.C. 190, 388 S.E.2d 118 (1990) (herein after the Nantahala case). DEC/DEP noted that the Supreme Court in that case held that the Commission had the authority to address tax reform through a rulemaking proceeding, rather than only through a general rate case proceeding and that such action did not constitute single-issue ratemaking because there were no adjudicative-type facts in dispute that would require individual hearings. DEC/DEP maintained that the Nantahala case supports the ability of the Commission to determine how to address changes resulting from federal tax reform, but does not mandate that the Commission address such impacts in any particular manner. DEC/DEP stated that, as such, the Commission has the authority to grant the Companies' proposed treatment of the federal tax reform changes. DEC/DEP asserted that adjusting utility rates solely to account for the impact of the reduction in the federal corporate income tax rate and the flow back of excess deferred income tax (EDIT) is not appropriate. DEC/DEP stated that the Commission should also take into account all other impacts of the Tax Act as well as other non-tax inputs that could affect rates. DEC/DEP maintained that the Tax Act represents a unique opportunity to deliver savings to customers, but as with all ratemaking actions, the interests of customers and the Companies should be balanced.

DEC/DEP noted that the headline change to the corporate tax code is a reduction of the statutory federal corporate income tax rate from 35% to 21%. DEC/DEP stated that this reduction in the federal corporate income tax rate, however, is accompanied by many other provisions that serve to broaden the tax base and to "pay for" the effect of the 21% tax rate. DEC/DEP noted that most of the provisions of the Tax Act take effect beginning January 1, 2018.

DEC/DEP maintained that most changes to the corporate tax code apply to all U.S. corporations equally, while a limited set of others affect regulated utilities uniquely. DEC/DEP noted that for utilities in general, and the Companies in particular, the key provisions of the Tax Act that will affect customer rates are as follows: (1) reduction in the federal corporate income tax rate from 35% to 21%; (2) retention of net interest expense deductibility; (3) elimination of bonus depreciation; (4) elimination of the manufacturing deduction; and (5) normalization of EDIT resulting from the Tax Act.

DEC/DEP stated that the Tax Act makes five principal changes to the tax code that affect regulated electric utilities, as follows:

(1) <u>Reduction in Federal Corporate Income Tax Rate</u>

DEC/DEP noted that the new statutory federal corporate income tax rate of 21% represents a 40% reduction from the previous rate of 35%. DEC/DEP stated that this will lower a key component of cost of service, i.e., income taxes. DEC/DEP stated that in contrast to this lower cost of service impact, however, rate base will be higher in future rate proceedings due to the elimination of bonus depreciation and the reduced value of accelerated depreciation due to the lower federal corporate income tax rate.

(2) <u>Interest Expense Deductibility</u>

DEC/DEP stated that the Tax Act generally provides that net interest expense is deductible only to the extent it does not exceed a stated percentage of an adjusted taxable income calculation, a calculation that becomes even more restrictive four years hence. DEC/DEP maintained, however, that regulated utilities are exempt from this limitation provision and may deduct their interest expense without limitation. DEC/DEP stated that Duke Energy and Edison Electric Institute (EEI) (a regulated electric utility trade association) fought hard to achieve this important exemption, and the Companies' customers will retain the significant benefits that flow from it.

(3) <u>Depreciation and Expensing of Capital</u>

DEC/DEP maintained that the Tax Act generally provides that corporations may immediately expense capital as it is placed in service, akin to 100% bonus depreciation. However, DEC/DEP noted, the Tax Act specifically prohibits the immediate expensing of capital by regulated utilities. DEC/DEP stated that, instead, utilities are directed to use modified accelerated cost recovery system (MACRS) depreciation for capital investment placed in service. DEC/DEP asserted that though no longer accompanied by "bonus" depreciation, MACRS still represents a significantly accelerated rate of depreciation compared to book depreciation. DEC/DEP noted that, as a result, deferred taxes will continue to accrue under MACRS, but will do so at a slower rate compared to bonus depreciation and at a much slower rate under the lower 21% federal corporate income tax rate and this will cause a more rapid increase to rate base relative to pre-Tax Act.

(4) Manufacturing Deduction

DEC/DEP stated that prior to the Tax Act, domestic manufacturers were granted a tax deduction based on a certain percentage of qualifying manufacturing income, and the production of electricity qualified for this tax benefit. DEC/DEP noted that in order to avail itself of this deduction, a corporation had to be in a taxable income position and this was often not the case recently for most regulated utilities because of the impact of bonus depreciation. DEC/DEP maintained that, unfortunately, the elimination of bonus depreciation for utilities in the Tax Act coincided with the elimination of this tax deduction for all manufacturers, which is directionally detrimental to customer rates.

(5) Excess Deferred Income Taxes

DEC/DEP noted that at the end of 2017, the Companies had a significant net deferred tax liability, booked at a 35% federal corporate income tax rate and driven overwhelmingly by accelerated and bonus depreciation of fixed assets for tax purposes. DEC/DEP maintained that because a deferred tax liability represents taxes collected from customers, but not yet paid to taxing authorities, and because the ultimate payment of these taxes will now occur at a 21% corporate income tax rate, down from 35%, the balance of the deferred tax liability must be re-measured. DEC/DEP stated that this resulting "excess" deferred tax balance becomes a regulatory liability. DEC/DEP asserted that the Tax Act requires that excess deferred taxes generally associated with property, and specifically connected to the accelerated depreciation of property, must be normalized into customers' rates in a highly-prescribed manner that mimics the remaining life of the underlying assets. DEC/DEP stated that these are known as "protected" excess deferred taxes. DEC/DEP noted that all other excess deferred taxes (i.e., unprotected EDIT) may be treated by the Commission like any other regulatory liability in the rate-setting process.

DEC/DEP asserted that pursuant to the Commission's January 3, 2018 Order, DEC/DEP will defer (by being booked in FERC Accounts 229 and 254) as a regulatory liability (1) all excess accumulated deferred income tax (ADIT) balances created by the Tax Act, and (2) the estimated difference between customer revenues actually earned and what would have been earned taking into account the reduced corporate income tax rate beginning January 1, 2018, until the Commission determines the timing and nature of such benefits to customers.

DEC/DEP asserted that implementation of the Tax Act has the potential to adversely affect the Companies' cash flows needed to fund ongoing operations and new infrastructure investments, and makes having a strong equity to debt capital structure even more important post-Tax Act reform. DEC/DEP stated that an unmitigated cash flow shortfall could force the Companies to rely excessively on third-party capital to fund DEP and DEC, to the ultimate detriment of their financial condition. DEC/DEP maintained that DEC, for example, is in the midst of a base rate proceeding where the Company has demonstrated that its revenues are already insufficient to provide recovery of its reasonable costs and earn a reasonable return. DEC/DEP argued that adjusting the Companies' rates downward in isolation for just the reduction in the federal corporate income tax rate will make an undesirable situation worse from an overall cash flow perspective. DEC/DEP noted that in petitions to intervene filed in this proceeding, as well as in filings made in the pending DEP and DEC rate cases, some intervenors have called for the Commission to reduce customer rates and the Companies' revenues immediately for 100% of the impacts of the Tax Act. DEC/DEP stated that those intervenors argue for an immediate use of only the benefits under the Tax Act, to the exclusion of other provisions of the Tax Act, in isolation and without regard to the utility's current financial position and other relevant factors. DEC/DEP asserted that in the longer-term, one of the unintended consequences of the Tax Act is that the lower tax rate and the elimination of bonus depreciation will increase the Companies' rate base over time, which has the corresponding effect of increasing customer rates over time. DEC/DEP stated that they respectfully assert that implementing such an approach offered by other intervenors would be unsound policy and would be detrimental to customers over the longer-term.

DEC/DEP maintained that stand-alone utility and consolidated financing structures are based on pre-Tax Act capital flows and were formed to support significant investments to benefit customers. DEC/DEP noted that if incoming cash flows decrease pursuant to tax reform, credit metrics will weaken and financial pressure will increase. DEC/DEP asserted that in a tangible sign of this risk, on January 19, 2018, Moody's changed Duke Energy Corporation's rating outlook from stable to negative in response to the financial impacts of the Tax Act and regulatory uncertainties related thereto. DEC/DEP further noted that Moody's changed the ratings outlook of Piedmont Natural Gas, Inc. and 22 other utilities and utility holding companies from stable to negative.

DEC/DEP attached as Exhibits 1 and 2 to their comments the estimated effect of the Tax Act on DEP's and DEC's cost of service. DEC/DEP stated that these estimates are based on the cost of service studies from Docket Nos. E-7, Sub 1026 and E-2, Sub 1023, respectively, which are the rate cases in which current rates were established. DEC/DEP noted that these exhibits also show a resulting reduction in the annual revenue requirement of $104 million for DEP and $172 million for DEC, and translate that into a decrement rate per kilowatt hour, based on the kilowatt hours in those cases.

DEC/DEP further noted that based on the DEP NC 2013 rate case, the total tax expense savings is $104 million. DEC/DEP maintained that the Company (DEP) will not know the level of tax expense savings based on the pending rate case until the Commission order is received. DEC/DEP noted that the difference between the actual amount of tax expense savings based on the rates set in Docket No. E-2, Sub 1142 and the $104 million would be deferred into a regulatory liability account for consideration in a future proceeding. DEC/DEP stated that based on the DEC NC 2013 rate case, the total tax expense savings is $172 million. DEC/DEP stated that the Company (DEC) will not know the level of tax expense savings based on the pending rate case until the Commission order is received. DEC/DEP maintained that the difference between the actual amount of tax expense savings based on the rates set in Docket No. E-7, Sub 1146 and the $172 million would be deferred into a regulatory liability account for consideration in a future proceeding.

DEC stated that it would propose to continue this deferral until new rates can be established in its currently pending rate case in Docket No. E-7, Sub 1146 that reflect the benefits of the lower tax expense. DEP noted that it would propose to continue this deferral until an order is issued by the Commission in its currently pending rate case in Docket No. E-2, Sub 1142. DEP stated that at that time, it will recalculate the cost of service impacts of the Tax Act based on the compliance cost of service, and start deferring based on the updated decrement rate per kilowatt hour. DEC/DEP stated that should the Commission establish a rider for DEP to reflect the benefit, DEP would stop the deferral when the rider was effective.

DEC/DEP maintained that the attached exhibits only show the impact of the Tax Act on base rates. DEC/DEP stated that they expect there may be additional benefits for customers through reduced rider rates, which will be handled in the respective annual rider filings and experience modification factors.

DEC/DEP stated that they propose to pass on savings from the income tax expense reduction to customers. DEC/DEP maintained that in passing on the tax expense savings to customers, the Commission has and should use its ability to implement the Tax Act changes in a way that provides customers with near-term benefits, while minimizing customer rate volatility over both the shorter and longer-term. DEC/DEP noted that with two pending rate cases before it, the Commission has the unique opportunity to help mitigate rate increases by applying the federal income tax expense savings to offset a portion of the requested increases. DEC/DEP asserted that this could be accomplished by offsetting items such as storm response costs, ongoing coal ash basin closure compliance costs or other environmental compliance costs, or accelerating the depreciation of certain assets such as the existing AMR meters or coal plants. DEC/DEP stated that the use of accelerated depreciation would benefit customers by lessening future rate increases caused by rate base growth resulting from the Tax Act.

DEC/DEP proposed to hold the EDITs to be addressed in future rate cases for the benefit of customers. DEC/DEP stated that, specifically, for excess deferred income taxes, the Companies propose to establish regulatory liabilities. DEC/DEP noted that similar to the liabilities created as a result of North Carolina House Bill 998's State corporate income tax rate changes and in compliance with Docket No. M-100, Sub 138, the amortization of these liabilities should be addressed in the Companies' next general rate proceedings. DEC/DEP further stated that it is important to note that a significant portion of the EDIT resulting from the Tax Act will be subject to Internal Revenue Service (IRS) normalization restrictions.

DEC/DEP noted that with respect to DEC, the Company proposes to address federal tax reform impacts in its pending rate case in Docket No. E-7, Sub 1146, for which the evidentiary hearing is currently scheduled to begin on February 27, 2018[1]. DEC/DEP noted that with respect to DEP, the Company also has a pending rate case in Docket No. E-2, Sub 1142; however the record in that case has been closed, and DEP anticipated that the Commission would issue a final order in the near term[2]. DEC/DEP stated that once the Commission order in that rate case proceeding is received, DEP will be able to calculate the impacts of the Tax Act on tax expense based on a compliance cost of service with the Commission's order. DEP proposed to defer the resulting estimated impacts to a regulatory liability, until DEP's next rate case. DEC/DEP maintained that as an alternative, the Commission could approve a rider in Docket No. M-100, Sub 148 to reduce DEP customer rates including any potential offsets.

DEC/DEP requested that the Commission approve and adopt the recommendations contained in their initial comments, enabling the Companies to provide benefits to customers and continue building the energy future their customers and communities deserve.

DENC noted that among other modifications to the Internal Revenue Code, such as repealing the deduction for income attributable to domestic production activities and modifying the cost recovery rules for property, the Tax Act reduces the federal corporate income tax rate from 35% to 21%, effective for taxable years beginning after December 31, 2017.

DENC provided as Attachment 1 to its initial comments the impact of the Tax Act on DENC's base non-fuel cost of service, addressing: (1) the reduction of the federal corporate income tax rate from 35% to 21%, and (2) the repeal of the Section 199 Domestic Production Activities Deduction. DENC noted that Section 13305 of the Tax Act repeals the Section 199 Domestic Production Activities Deduction; removing this federal tax deduction increases income tax expense by $0.7 million. DENC maintained that overall, annual North Carolina jurisdictional income tax expense is expected to decrease by approximately $10.8 million with a corresponding increase to operating income of the same amount beginning January 1, 2018.

DENC also noted that it reduced the balance of ADIT in its financial records to reflect an estimated amount of EDIT for the Virginia Electric and Power Company system effective December 31, 2017. DENC stated that, however, such estimate and the portion allocable to the North Carolina retail operations will be further refined throughout the coming year as a more detailed analysis is completed and needed guidance from the IRS is forthcoming.

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[1] The evidentiary hearing was subsequently changed to begin on March 5, 2018. The Commission issued its Order in DEC's rate case proceeding on June 22, 2018.

[2] The Commission issued its Order in DEP's rate case proceeding on February 23, 2018.

DENC further stated that in addition to the Company's base non-fuel rate cost of service, the Tax Act impacts the Company's Rider EDIT, as approved in the Company's 2016 Base Rate Case Order. DENC noted that Rider EDIT is a decrement rider that refunds to customers over a two-year period, commencing on November 1, 2016 through October 31, 2018, a regulatory liability for EDIT associated with recent reductions in the North Carolina corporate income tax rate. DENC noted that the regulatory liability approved by the Commission was calculated using a tax gross-up factor that included a 35% federal income tax rate in effect prior to the enactment of the Tax Act. DENC maintained that beginning January 1, 2018, the federal corporate income tax component of the tax gross-up factor will be reduced from 35% to 21% pursuant to the Tax Act. DENC provided as Attachment 1 to its initial comments a schedule showing the reduction in the regulatory liability and the associated reduction to the Rider EDIT credit of $1.4 million for the period January 1, 2018 through October 31, 2018 due to the change in the tax gross-up factor.

DENC asserted that in accordance with Generally Accepted Accounting Principles (GAAP), the Company recorded in its financial records a reduction in the balance of EDIT effective December 31, 2017, to reflect an estimate of the impact of the Tax Act. DENC stated that the reductions in ADIT associated with the Company's regulated operations and recognized for ratemaking purposes were reclassified to regulatory liability accounts. DENC noted that the predominant amounts of EDIT established as a regulatory liability are associated with utility property depreciation and related book-tax timing differences that are subject to the Internal Revenue Code's normalization rules pursuant to new Internal Revenue Code (IRC) Section 1561(d) that contains similar provisions to the rules promulgated in Section 203(e) of the Tax Reform Act of 1986. DENC maintained that pursuant to Section 13001 of the Tax Act, the Company is required to use the average rate assumption method (ARAM) for purposes of amortizing EDIT over the remaining regulatory lives of the property that gave rise to the original reserve for deferred taxes. DENC stated that amortizing such EDIT using a methodology other than ARAM would violate the normalization rules and would result in the loss of the use of accelerated depreciation by the Company and a cash penalty equal to the amount by which the excess deferred tax reserve is reduced more rapidly than permitted under the Tax Act. DENC asserted that, accordingly, the Company will begin amortizing the estimated plant-related EDIT for financial accounting purposes effective January 1, 2018 subject to adjustment pending additional guidance from the IRS.

DENC further noted that as directed by the Commission in the Order, DENC is now treating the federal corporate income tax component of its existing approved rates and charges as provisional rates that are subject to deferral accounting. DENC stated that this includes the Company's currently-approved and effective base rates (fuel and non-fuel), as well as: (i) annual riders for fuel and fuel-related costs, the Company's demand-side management programs and energy efficiency program costs (DSM/EE), and Renewable Energy and Energy Efficiency Portfolio Standard (REPS) compliance costs, and (ii) Rider EDIT.

DENC maintained that for purposes of the Company's base non-fuel rates and Rider EDIT, the Company intends to address the cost of service impacts and disposition of deferred amounts due to the Tax Act through the Commission's general ratemaking procedure set forth in N.C. Gen. Stat. § 62-130 and N.C. Gen. Stat. § 62-133. DENC stated that this approach ensures that the Company has sufficient time to comprehensively evaluate the direct and indirect impacts of this complex new tax legislation in determining the Company's updated cost of service. DENC asserted that the differences between rates in effect at January 1, 2018, including provisional components, and revenues that would have been billed incorporating the IRC as now amended by the Tax Act, will be held in a deferred account. DENC argued that this approach is reasonable and fair to customers and the Company, as the Company is now collecting these amounts on a provisional basis. DENC stated that through the Company's next general rate case, DENC will comprehensively address all impacts from the Tax Act as part of its updated cost of service filed in that proceeding. DENC maintained that North Carolina's general ratemaking procedures provide the most reasonable and appropriate mechanism to assess the ongoing justness and reasonableness of the Company's rates, and to affect future rate changes in a manner that ensures both customers and the utility are treated fairly based upon a comprehensive review of increases or decreases in the Company's total cost of service.

DENC further stated that for the Company's rates and charges with approved deferral accounting and experience modification factors (i.e., fuel factor, DSM/EE, and REPS riders), the Company proposes to defer any differences between rates in effect at January 1, 2018, including any provisional components, and revenues that would have been billed incorporating the IRC as now amended by the Tax Act, through the ordinary deferral accounting process. DENC noted that any such differences will be addressed in future annual rider proceedings where applicable.

<u>Natural Gas Utilities</u>

<u>Frontier</u> noted that it is in a unique situation with regard to the provision of natural gas sales and distribution service in North Carolina at rates approved by the Commission. Frontier stated that when it was established and granted the necessary certification to serve customers in Ashe, Surry, Watauga, Wilkes, Yadkin, and Warren counties, the initial rates established were not based on a cost of service. Frontier maintained that at the time initial rates were approved for Frontier, the Company had not installed the necessary distribution system to attach customers, but needed to have rates established that were competitive with other available fuels. Frontier commented that as the Commission noted in Docket No. G-38, Sub 1, "[i]t is more accurate to describe the rates to be established in this proceeding as initial franchise rates, recognizing that they are based upon estimates of construction costs, expenses, revenues, and financing costs and upon a determination that they are competitive with alternative fuels." (Order Awarding Certificate and Approving Rates for Warren County, Docket No. G-38, Sub 1, at p.10 (March 27, 1997)).

Frontier stated that pursuant to numerous intervening Commission orders and settlements, Frontier continues to operate under the same initial franchise rates with the exception of the Gross Receipts Tax removed from margin rates and recovered through a surcharge which kept the Company whole in 1999, and a reduction in residential and small commercial rates as agreed to in a stipulation when Frontier was acquired by Energy West Inc. in 2007. Frontier noted that it has never undergone a general rate case proceeding under N.C. Gen. Stat. § 62-133 and has never had the Commission determine cost-of-service based rates for the services it provides. Frontier asserted that there has been no rate case where investment, expense, capital structure, return on equity, among other rate case items, have been considered or acted on by the Commission.

Frontier noted that in the Commission's 2013 proceeding addressing the decrease in the State corporate income tax rate (Docket No. M-100, Sub 138), the Public Staff acknowledged that Frontier provides gas service pursuant to rates established in connection with the granting of its certificate, not rates established in a general rate case based on specific items of cost. Frontier also noted that, therefore, the Public Staff recommended that the Commission not adjust Frontier's rates as a result of HB 998 (the State legislation decreasing the State corporate income tax rate). Frontier maintained that the Commission agreed with the Public Staff and found it appropriate to exclude Frontier from further consideration by the Commission in that docket. Frontier stated that the Commission's ruling effectively exempted Frontier from any obligation to flow-through the State corporate income tax reductions adopted in HB 998 on the grounds that its rates were not cost-based in the first instance; therefore, it made little sense to compel the adoption of a cost-based adjustment to those rates. Frontier argued that the same logic would compel a similar result in this docket.

In response to the two questions posed by the Commission in its January 3, 2018 Order, Frontier noted that in the absence of a prior Frontier rate case, there is no specific rate case detail to base a response on. Frontier requested that it be allowed to continue charging its existing rates that have been in effect with minimal changes for 20 years. Frontier further noted that the excess deferred income taxes will be treated in a manner specified by the IRS rules and regulations; specifically, Frontier will amortize the excess over the remaining life of the assets.

Piedmont stated that it intends to pass the benefits of tax reform back to all customers served pursuant to Piedmont's Commission-approved rate schedules. Piedmont maintained that it proposes to effectuate that intent through solutions that will lower customer bills in the near-term, help mitigate volatility due to future rate increases, and protect the Company's current credit quality for the benefit of customers. Piedmont asserted that it has worked diligently and successfully over the years to provide high-quality service to its customers while maintaining a strong balance sheet in order to support and fund its ongoing operations. Piedmont stated that a solid financial foundation has helped the Company keep customer rates for natural gas service at reasonable levels while providing safe, reliable and environmentally friendly energy for the State of North Carolina. Piedmont maintained that the Commission has played a critical role in Piedmont's ability to achieve these goals.

Piedmont asserted that natural gas utilities are a very capital intensive operation, which is part of the reason why they are structured as regulated monopolies. Piedmont stated that it makes capital investments in new infrastructure because those investments are necessary to provide critical energy services to the State and to ensure that its natural gas transmission and distribution systems continue to maintain the highest level of safety, not because of federal tax policy. Piedmont argued that its obligation to serve the public requires that Piedmont maintain the financial wherewithal to support such service at all times. Piedmont asserted that some aspects of the Tax Act will disrupt Piedmont's cash flows and have negatively impacted its credit ratings. Piedmont stated that inasmuch as credit quality drives access to affordable capital, it is important, and in the best interest of customers, to prevent a weakening of the Company's cash flow and reverse the degradation of its credit quality.

Piedmont maintained that recent federal tax reform provides both Piedmont and the Commission with an opportunity to reduce customer rates and smooth rate volatility over both the short- and long-term while also preserving Piedmont's ability to provide safe, reliable and affordable energy without endangering its credit quality. Piedmont asserted that the Commission has substantial discretion in its ratemaking treatment of these tax changes. Piedmont argued that adjusting utility rates solely to account for the impact of the reduction in the federal corporate income tax rate and the flow back of EDIT should not be automatic, rather the Commission should consider all matters that could affect rates. Piedmont stated that the Tax Act represents a unique opportunity to deliver savings to customers, but as with all ratemaking actions, the long-term and short-term interests of customers must be balanced.

Piedmont stated that it is proposing to reduce customer bills through the flow-through of tax rate reductions under its Integrity Management Rider (IMR) mechanism while deferring tax rate reductions on its base rates until the next general rate case proceeding where such deferral can be amortized and used to offset any requested base rate increase in that docket. Piedmont maintained that for EDIT, the Company will establish a regulatory liability and, similar to the Commission's treatment of EDIT in Docket No. M-100, Sub 138, would propose that those liabilities be addressed in the Company's next general rate case proceeding. Piedmont also noted that a significant portion of the EDIT resulting from the federal income tax rate change will be subject to normalization restrictions.

Piedmont asserted that, if approved, its proposal will provide customers with the benefit of savings under the Tax Act through rate reductions commencing with its upcoming June 1, 2018 IMR rate adjustment and minimization of rate volatility over both the short- and long-term, while sparing Piedmont, and ultimately customers, from the undesirable impacts of the Tax Act on Piedmont's cash flows and credit quality. Piedmont asserted that its proposal, which represents a balanced approach that benefits customers while minimizing any weakening of credit quality, should be approved by the Commission.

Piedmont maintained that the headline change to the federal corporate tax code is a reduction of the statutory federal corporate income tax rate from 35% to 21%, but this reduction in the tax rate is accompanied by many other provisions that serve to broaden the tax base and to "pay for" the effect of the 21% tax rate. Piedmont noted that most provisions of the Tax Act take effect beginning January 1, 2018.

Piedmont stated that most changes to the corporate tax code apply to all U.S. corporations equally, while a limited set of others affect regulated utilities uniquely. Piedmont maintained that for utilities in general, and Piedmont in particular, the key provisions of the Tax Act that will affect customer rates are as follows: (1) reduction in the federal corporate income tax rate from 35% to 21%; (2) retention of net interest expense deductibility; (3) elimination of bonus depreciation; and (4) normalization of EDIT resulting from the Tax Act.

Piedmont asserted that the purpose of the Tax Act was to stimulate business investments, create jobs and grow the economy. Piedmont stated that an expectation that the financial health of Piedmont not be harmed by tax reform is consistent with these policy objectives and serves as a theme of Piedmont's initial comments.

Piedmont highlighted the following four principal changes to the tax code that affect regulated natural gas utilities due to the Tax Act:

(1) <u>Reduction in Federal Corporate Income Tax Rate</u>

Piedmont noted that the new statutory federal corporate income tax rate of 21% represents a 40% reduction from the previous rate of 35%. Piedmont stated that this will lower a key component of cost of service, i.e., income taxes. Piedmont stated that in combination with the elimination of bonus depreciation, a lower corporate income tax rate will slow the accumulation of deferred income taxes and have an increasing effect on rate base, thereby causing an effect that is opposite to the lower cost of service effect.

(2) <u>Interest Expense Deductibility</u>

Piedmont stated that the Tax Act generally provides that net interest expense is deductible only to the extent it does not exceed a stated percentage of an adjusted taxable income calculation, a calculation that becomes even more restrictive four years hence. Piedmont maintained, however, that regulated utilities are exempt from this limitation provision and may deduct their interest expense without limitation.

(3) <u>Depreciation and Expensing of Capital</u>

Piedmont maintained that the Tax Act generally provides that corporations may immediately expense capital as it is placed in service, akin to 100% bonus depreciation. However, Piedmont noted, the Tax Act specifically prohibits the immediate expensing of capital by regulated utilities. Piedmont stated that, instead, utilities are directed to use MACRS depreciation for capital investment placed in service. Piedmont asserted that though no longer accompanied by "bonus" depreciation, MACRS still represents a significantly accelerated rate of depreciation compared to book depreciation. Piedmont noted that, as a result, deferred taxes will continue to accrue under MACRS, but will do so at a slower rate compared to bonus depreciation and at a much slower rate under the lower 21% federal corporate income tax rate and this will cause a more rapid increase to rate base relative to pre-Tax Act.

(4) Excess Deferred Income Taxes

Piedmont noted that at the end of 2017, it had a significant net deferred tax liability, booked at a 35% federal corporate income tax rate and driven overwhelmingly by accelerated and bonus depreciation of fixed assets for tax purposes. Piedmont maintained that because a deferred tax liability represents taxes collected from customers, but not yet paid to taxing authorities, and because the ultimate payment of these taxes will now occur at a 21% corporate income tax rate, down from 35%, the balance of deferred tax liability must be re-measured. Piedmont stated that this resulting "excess" deferred tax balance becomes a regulatory liability. Piedmont asserted that the Tax Act requires that excess deferred taxes generally associated with property, and specifically connected to the accelerated depreciation of property, must be normalized into customers' rates in a highly-prescribed manner that mimics the remaining life of the underlying assets. Piedmont stated that these are known as "protected" excess deferred taxes. Piedmont noted that all other excess deferred taxes may be treated by the Commission like any other regulatory liability in the rate-setting process. Piedmont stated that if all excess deferred tax liability balances are normalized for rate-setting purposes, the impact to Piedmont from a return of the excess ADIT to customers would be neutral to pre-Tax Act cash flow even as customers will realize a rate benefit over time.

Piedmont asserted that pursuant to the Commission's January 3, 2018 Order, Piedmont will defer as a regulatory liability (1) all excess ADIT balances created by the Tax Act, and (2) the estimated difference between customer revenues actually earned and what would have been earned taking into effect the reduced corporate income tax rate beginning January 1, 2018, until the Commission determines the timing and nature of such benefits to customers.

Piedmont maintained that the implementation of the Tax Act has the potential to adversely affect Piedmont's cash flows needed to fund ongoing operations and new infrastructure investments. Piedmont stated that a cash flow shortfall resulting from the immediate flow-through of tax rate reductions and the excess ADITs could force Piedmont to rely, to a much larger extent, on third-party capital to fund its operations to the ultimate detriment of Piedmont's financial condition and the public interest inherent in maintaining low debt costs. Piedmont asserted that evidence of this detrimental impact from the Tax

Act has already arrived in the form of a downgrade to the ratings outlook maintained by Moody's Investors Services for Piedmont and other public utilities issued on January 19, 2018. Piedmont noted that it attached a copy of the downgrade notice as Exhibit 1 to its initial comments. Piedmont maintained that these ratings outlook downgrades are driven by the negative cash-flow consequences of a reduction in federal corporate income tax rates in combination with a reduction in tax deferrals resulting from the loss of bonus depreciation. Piedmont stated that Moody's, in its revised ratings outlook, downgraded Piedmont from stable to negative. Piedmont noted that in the discussion of its downgrades, Moody's makes it clear that it expects the downgraded utilities to attempt to manage the negative impacts of the Tax Act through regulatory mechanisms and holds out some hope that ratings outlooks could return to stable for some of the downgraded utilities if effective regulatory relief is granted.

Piedmont noted that in petitions to intervene filed in this proceeding, as well as in filings made in the pending DEP and DEC rate cases, some intervenors have called for the Commission to reduce customer rates and the utilities' revenues immediately for 100% of the impacts of the Tax Act. Piedmont stated that they argue for an immediate pass-through of only the benefits under the Tax Act, to the exclusion of other provisions of the Tax Act, in isolation and without regard to the utility's current financial position and other relevant factors. Piedmont argued that implementing this approach would be unsound policy and would be detrimental to customers over the longer-term.

Piedmont asserted that stand-alone utility and consolidated financing structures are based on pre-tax reform capital flows and were formed to support significant investments to benefit customers. Piedmont argued that an immediate flow back resulting from tax reform would significantly lower Piedmont's cash recovery creating pressure to incur additional debt to fund operations. Piedmont maintained that both of these actions will affect Piedmont's credit metrics and ability to continue to issue debt at the cost embedded in current customer rates. Piedmont stated that customers benefit directly from a strong balance sheet and strong investment grade credit ratings through low cost of capital and strong access to capital during all market conditions. Piedmont noted that this was particularly evident during the recent Great Recession. Piedmont asserted that, conversely, a decrease in incoming cash flows both increases risk and increases debt costs over time. Piedmont maintained that the Commission should consider these very real consequences of the Tax Act when determining how to adopt appropriate regulatory requirements for Piedmont in this circumstance. Piedmont asserted that its proposals avoid these results while still providing a meaningful degree of immediate rate relief to customers and ensuring that customers ultimately receive the full benefit of the Tax Act.

Piedmont provided as Exhibit 2 to its initial comments the estimated effect of the Tax Act on Piedmont's cost of service. Piedmont noted that this amount, $19,822,593, is based on the Commission-approved Stipulation from Piedmont's most recent general rate case filing in Docket No. G-9, Sub 631. Piedmont stated that it would propose to provide customers with the benefits of its reduced cost of service in two ways. First, Piedmont proposed to implement the new reduced federal corporate income tax rate in calculating surcharges due under its IMR mechanism. Piedmont estimated the impact on its most recent IMR rate change to be approximately $6 million. Piedmont stated that, second, it would seek continued deferral of any excess income tax collections resulting from continuing to charge its current base rates until Piedmont's next general rate case that Piedmont anticipates filing in the next 12 to 24 months. Piedmont noted that this deferred liability could then be amortized and used to offset any rate increase sought in that general rate proceeding. Piedmont asserted that this deferral should not have a carrying charge or interest component associated with it, consistent with the notion of balancing the positive and negative effects of the Tax Act. Piedmont stated that, as an alternative, the Commission could approve a rider in this proceeding to reduce customer rates. Piedmont noted that it also proposed to defer action to address any return of excess ADIT resulting from the Tax Act until Piedmont's next general rate case which is consistent with the manner in which the Commission has addressed this issue in prior tax cut implementation proceedings. Piedmont asserted that this approach to adjusting for excess deferred income taxes would also have a smoothing effect on rates going forward.

Piedmont maintained that by returning a portion of the benefit of the Tax Act to customers through near-term rate decreases in the IMR mechanism and a portion through an amortized offset to any rate increase request in Piedmont's next general rate case proceeding, Piedmont believes that its proposals will achieve an appropriate balance of passing through the benefits of the Tax Act to customers while protecting Piedmont from the negative effects of an immediate flow-through on its credit metrics and financing structures to the ultimate benefit of its customers.

PSNC noted that in response to the Commission's January 3, 2018 Order, attached as Appendix A to its initial comments is a schedule showing the estimated annual effect to PSNC's cost-of-service, on an item-by-item basis, of the changes to the levels of federal corporate income tax expense expected due to the enactment of the Tax Act. PSNC stated that column (a) sets forth the net operating income for return, rate base, and overall return as determined in PSNC's last general rate case, Docket No. G-5, Sub 565, as adjusted to reflect the reduction in the State corporate income tax rate from 4% to 3% effective January 1, 2017. PSNC noted that column (b) sets forth the decrease in federal income tax expense and the revenue requirement impact of that decrease. PSNC further noted that column (c) sets forth the adjusted net operating income for return and return on rate base prior to reducing rates to reflect the reduction in the federal corporate income tax rate. PSNC stated that column (d) sets forth the decrease in revenue and associated adjustments to cost of service. PSNC maintained that in order to simplify the calculation and due to their immateriality, these amounts do not reflect any resulting impact on the cash working capital component of rate base. PSNC noted that column (e) sets forth PSNC's cost of service adjusted for changes resulting from the Tax Act.

PSNC further stated that the reduction in the federal corporate income tax rate from 35% to 21% will result in EDIT. PSNC stated that it proposes, and requests Commission approval, to record the adjustment to deferred taxes as a regulatory liability which will result in no net change in rate base until amortization of the liability begins. PSNC maintained that in accordance with Financial Accounting Standards Board requirements, the adjustments to deferred taxes will be grossed up to a pre-tax amount when recorded as a regulatory liability. PSNC noted that it proposes that the amortization of the regulatory liability be addressed in PSNC's next general rate case.

In addition, PSNC proposed to adjust its rates by allocating the annual revenue requirement impact of the Tax Act changes to the various rate schedules based on the volumes determined in PSNC's most recent general rate case, Docket No. G-5, Sub 565. PSNC stated that the change in rates applicable to each rate schedule will be used to determine the appropriate level of deferred revenue to record per ordering paragraph two of the January 3, 2018 Order. PSNC asserted that due to the administrative burden of implementing a refund by recalculating previously issued bills, PSNC proposes to refund provisionally collected amounts by moving the balance in the regulatory liability account to the Company's All Customers Deferred Account. PSNC noted that this is the same treatment that PSNC used to refund provisionally collected amounts in Docket No. M-100, Sub 138 (the State corporate income tax rate change generic proceeding).

PSNC noted that Appendix B to its initial comments sets forth the adjustments to rates resulting from the decrease in revenue requirement due to enactment of the Tax Act. PSNC stated that proposed rates are set forth on Appendix C.

PSNC also noted that contemporaneous with filing its initial comments, on February 1, 2018, it submitted its Application to Refund Overcollection in Docket Nos. G-5, Sub 565 and M-100, Sub 138[3]. PSNC stated that as indicated therein, the determination of the revenues being billed and collected on a provisional basis pursuant to this docket will include amounts over collected due to the error in adjusting rates for the decrease in the State corporate income tax rate from 4% to 3%, effective January 1, 2017.

Toccoa noted that it is a municipally-owned natural gas system and that it is therefore not a Sub C business corporation. Toccoa stated that because it is a municipally-owned natural gas system, it is not subject to income or other tax obligations. Toccoa maintained that, therefore, based on information and belief, no tax allowances were included in any determination of Toccoa's revenue requirements when the Commission established its rates.

Toccoa stated that because it is not subject to income tax, there will be no changes to the levels of income tax expenses due to the enactment of the Tax Act. Toccoa maintained that, therefore, no adjustment to Toccoa's existing rates would be necessary or appropriate as a result of the passage of the Tax Act.

[3] On February 8, 2018, PSNC filed a letter providing the final amount to be refunded to PSNC's customers due to incorrectly calculating its base rates to reflect the 3% State corporate income tax rate, effective January 1, 2017. On March 28, 2018, the Public Staff filed a letter containing specific recommendations concerning PSNC's February 1, 2018 and February 8, 2018 filings.

Water/Wastewater Utilities

Aqua filed the Affidavit of Shannon V. Becker, the Company's President, as its initial comments. Aqua stated that the Company intends to file a general rate case in early-March 2018[4]. Therefore, Aqua requested that the impact of the Tax Act on the Company's rates be resolved in its soon-to-be-filed general rate case and determined in the Order to be issued by the Commission in that proceeding.

Aqua also noted that it will track and defer any benefit that is recognized as a result of the decrease in the federal corporate income tax rate from 35% to 21% on the currently payable piece of federal income tax included in customer rates. Aqua stated that these changes will be recorded to a regulatory liability for consideration in the Company's upcoming general rate case proceeding. Aqua maintained that the information requested by the Commission in its January 3, 2018 Order will certainly be examined as part of the soon-to-be-filed general rate case application and, therefore, recommended that the Commission deal with the issue entirely in that rate case. Aqua estimated the impact on annual revenues due to the Tax Act to be a reduction of $1.5 million.

Aqua also stated that with respect to the Commission's question on how Aqua intended to treat EDIT, the Company proposed to account for the excess deferred federal income taxes by reducing the deferred taxes ratably over the regulatory life of the underlying property. Aqua explained that this issue is broken down into two components, protected and non-protected. Aqua maintained that the protected items must be accounted for by the average rate assumption method (ARAM) or a straight-line method no faster than ARAM in order to not violate normalization accounting. Aqua stated that it intends to defer the process of amortizing these excess deferred taxes until they are addressed in the upcoming rate case filing. Aqua noted that the non-protected excess deferred federal income taxes will be amortized on a yet-to-be-determined period, but will also be added to the regulated liability for consideration in the upcoming rate case. Aqua stated that this issue can be most logically and efficiently dealt with in the upcoming rate case, given the coincidence of timing of the rate case and the January 1, 2018 reduction in the federal corporate income tax rate from 35% to 21%. Aqua asserted that by utilizing this deferral accounting method, all of the effects of the Tax Act will be appropriately captured for proper consideration in the Company's upcoming rate case.

CWSNC filed the Affidavit of Anthony Gray, the Company's Senior Financial and Regulatory Analyst, as its initial comments. CWSNC stated that it agrees that the Commission should consider the impact of the federal corporate income tax change on the existing rates of utilities such as CWSNC. However, CWSNC stated that it believes that all aspects of the revenue requirement calculation need to be considered in this

[4] On February 5, 2018, Aqua filed its 30-day notice of intent to file a general rate case in Docket No. W-218, Sub 497. Aqua filed its general rate case application on March 7, 2018.

matter and that the new federal corporate income tax rate should not be considered in isolation when determining the impact upon current utility rates[5].

CWSNC noted that its current utility rates were set based upon rate base and operating expense levels, along with the federal corporate income tax rate of 35%, which were in place at the time of the Company's last rate case in 2017. CWSNC stated that the impact upon utility rates cannot be analyzed by only looking at the impact due to the change in just one component of the Company's revenue requirement. CWSNC stated that if the true impact is going to be analyzed for the change in the federal corporate income tax rate, then all other components of the Company's revenue requirement calculation need to be taken into consideration because it is likely that those other components have changed since the rates were last set by the Commission. CWSNC maintained that, for example, the Tax Act now renders Contributions in Aid of Construction (CIAC) for water and wastewater utilities taxable revenue, eliminating the exemption CIAC previously enjoyed. CWSNC noted that this could offset some of the savings from the reduced federal corporate income tax rate.

CWSNC stated that, nevertheless, it has calculated the annual cost of service changes as directed in the Commission's January 3, 2018 Order as a result of the federal corporate income tax rate change as shown on Exhibit 1 to its initial comments.

CWSNC stated that with respect to EDIT, although exact figures will not be available to the Company for at least 60 days, CWSNC has been collaborating with external tax professionals to assess the impact of the excess ADIT due to the change in the federal corporate income tax rate. CWSNC noted that its proposed accounting treatment of the issue is described in Exhibit 2 attached to its initial comments.

CWSNC maintained that it also recommends that the Commission consider the impact of the Tax Act upon CIAC. CWSNC noted that the Tax Act removes the tax exemption for CIAC. CWSNC noted that, thus, effective January 1, 2018, water and wastewater utilities like CWSNC will have to begin paying income taxes on cash and property CIAC they receive. CWSNC stated that this change will negatively affect CWSNC's opportunity to earn a reasonable return on its property used and useful in public service if the Company is not allowed to collect the appropriate tax on the CIAC received. CWSNC stated that it will immediately seek to collect from developers (and others) who transfer property and cash to the Company as CIAC based upon the new treatment under the Tax Act; however, there may be some amounts that are not collected as a result of the timing of the tax reform change. CWSNC noted that it does not believe that collection of this tax resulting from a change in the federal tax law requires any modification to its tariff; however, if the Commission believes state law mandates such a change, CWSNC requested clarification and immediate authorization to collect the taxes in the interim.

[5] The Commission notes that CWSNC filed a 30-day notice of intent to file a general rate case application on March 23, 2018, in Docket No. W-354, Sub 360. CWSNC filed its general rate case application on April 27, 2018.

Other Parties

The **Attorney General** stated that it recommends that the Commission exercise its rulemaking authority in this proceeding to order the utilities to flow through these federal tax reductions to consumers as soon as possible in the form of rate decreases.

The Attorney General noted that utility rates have been established by the Commission assuming that the utility pays a 35% federal corporate income tax rate, and that tax rate has changed to 21%, a substantial decrease. The Attorney General maintained that the impact affects investor-owned public utilities, generally, and to the extent that utility rates are not adjusted to reflect the new, lower federal income tax rates, utilities would receive large windfalls.

The Attorney General asserted that the Commission has authority to flow through the effect of tax changes to consumers in the form of rate reductions by ordering appropriate adjustments in a rulemaking proceeding, and did so when federal income tax rates for corporations were decreased from 46% to 34% effective July 1, 1987. (See Nantahala case).

The Attorney General recommended that the Commission order utilities to flow through these federal tax reductions to consumers as soon as possible in the form of rate decreases.

CIGFUR stated that CIGFUR I, II, and III are associations of large industrial retail purchasers of electric power from DENC, DEP, and DEC. CIGFUR noted that because income taxes are a major component of utility revenue requirements, the new federal tax law will have a substantial and material impact on the revenue requirements of DENC, DEP, and DEC and consequently on the ratepayers of these electric utilities.

CIGFUR asserted that the Commission should pass the substantial and material benefits of the new federal tax law on to ratepayers and may properly do so through this rulemaking proceeding. CIGFUR noted that the Commission is charged with setting just and reasonable rates for public utilities under Chapter 62 of the North Carolina General Statutes. CIGFUR stated that while Chapter 62 authorizes the Commission to modify base rates through a general rate case, there are exceptions. CIGFUR maintained that in 1990, the North Carolina Supreme Court affirmed a Commission order changing rates via a rulemaking proceeding under similar circumstances: the substantial decrease to the federal corporate income tax rate as a result of the Tax Reform Act of 1986. CIGFUR noted that the Supreme Court held that the Commission properly ordered affected utilities, through a rulemaking procedure, to lower their rates to reflect savings generated by the Tax Reform Act of 1986 when the final rule applied uniformly to the affected utilities that were similarly situated and (1) the tax reduction affected all utilities uniformly, (2) a large number of utilities were affected, making individual hearings for all inappropriate, and (3) no adjudicative-type facts were in dispute so as to require a trial-type hearing for each individual utility.

CIGFUR maintained that it understands that the impact of the new federal tax law will be substantial and material upon the revenue requirements of DEC, DEP, and DENC and will thus trigger the Commission's authority to pass tax reduction savings onto ratepayers via a rulemaking procedure as contemplated by the Nantahala court decision. CIGFUR asserted that in addition to the Commission's January 3, 2018 Order requiring impacted utilities to place the difference between revenues billed under present rates and the savings afforded by the reduction in the federal corporate income tax rate from 35% to 21% in a deferred account, CIGFUR requested that the Commission: (1) order that all public utilities subject to the docket file information setting forth each company's assessment of the new federal tax law on its North Carolina intrastate operations, including its proposal to adjust rates to reflect the reduction in the corporate income tax effectuated by the new federal tax law as soon as practicable and certainly no later than March 1, 2018; (2) issue an order establishing procedures to implement tariff reductions and refunds related to the corporate income tax savings related to the new federal tax law; (3) order that all affected utilities begin filing quarterly reports, no later than April 30, 2018, reflecting the status of the deferred account which the utilities were required to establish pursuant to ordering paragraph no. 2 of the Commission's January 3, 2018 Order; and (4) order each utility to establish a regulatory liability account to address EDIT resulting from the new federal tax law.

CIGFUR asserted that notwithstanding the Commission's authority to address the tax reduction outside of a general rate case, both DEP and DEC have general rate cases pending before the Commission, Docket Nos. E-2, Sub 1142 and E-7, Sub 1146, respectively. CIGFUR noted that it believes that it would be appropriate for the Commission to address the impacts of the new federal tax law through these general rate case proceedings as doing so is both efficient and will reduce confusion among DEP's and DEC's ratepayers.

CIGFUR stated that while in its late stages, DEP's general rate case remains pending before the Commission[6]. CIGFUR noted that the record is closed, however, CIGFUR asserted that the Commission may properly take judicial notice of the new federal tax law and the 40% reduction in the corporate income tax rate. CIGFUR quoted N.C. Gen. Stat. § 62-65(b) that states, "the Commission may take judicial notice of . . . federal statutes, . . . generally recognized technical and scientific facts within the Commission's specialized knowledge, and such other facts and evidence as may be judicially noticed by justices and judges of the General Court of Justice." CIGFUR also provided a quote from a 1998 court decision, as follows: "[f]urthermore, under Rule 201 of the North Carolina Rules of Evidence, the Commission, sitting as a trial tribunal, may judicially notice facts that are 'not subject to reasonable dispute in that [they are] either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned'." CIGFUR asserted that the Commission may properly take judicial notice in its discretion and at any state in the proceeding. CIGFUR requested that the Commission take judicial notice of the Tax Act in Docket No. E-2, Sub 1142, and,

[6] The Commission issued its Order in DEP's rate case proceeding on February 23, 2018.

accordingly, order DEP to amend its filing to comport with the new tax law, which should be the basis for final approved rates.

In addition, CIGFUR noted that the evidentiary hearing in DEC's general rate case is fast approaching. CIGFUR stated that requiring DEC to update its application to comport with the Tax Act prior to the start of the evidentiary hearings on February 27, 2018 will provide much-needed transparency and accuracy on a significant component of DEC's revenue requirement.[7]

CIGFUR stated that revised and accurate income tax expense and revenue requirements are critical in informing the Commission's determination of just and reasonable rates for DEP and DEC; if the Commission approves rates based on inflated tax numbers, such rates will be unreasonable and in violation of N.C. Gen. Stat. § 62-131. CIGFUR further asserted that setting base rates based upon incorrect tax rates and then later refunding the excess and resetting rates in a separate proceeding will be an inefficient use of the resources of the Commission, the Public Staff, the utility, and ultimately, the using and consuming public. CIGFUR argued that the pending general rate cases are the most efficient and economic vehicle for effectuating the substantial and material impact of the Tax Act. CIGFUR also stated that addressing the federal corporate income tax reduction through the pending general rate cases will avoid ratepayer confusion, which is of great importance considering the significant public scrutiny that is being afforded to DEP's and DEC's general rate case proceedings.

CIGFUR stated that it believes that the Commission should, as quickly as practicable, pass the substantial and material benefits of the Tax Act onto ratepayers through the most efficient means available, be that through this rulemaking proceeding or through pending general rate cases.

CUCA noted that the Commission has dealt with tax rate changes twice in the past 30 years. CUCA stated that in 1986, the Commission established Docket No. M-100, Sub 113 to address utility rates in light of the 1986 Tax Reform Act. CUCA further noted that in 2013, the Commission opened Docket No. M-100, Sub 138 to address the changes from North Carolina Session Law 2013-316 (House Bill 998), An Act to Simplify the North Carolina Tax Structure and to Reduce Individual and Business Tax Rates.

CUCA maintained that the Commission is vested with the power to change rates absent of a rate case that result from a change in taxation of regulated utilities based on the 1990 Supreme Court decision in State ex rel. Utilities Comm'n v. Nantahala Power and Light Co., 326 N.C. 190, 388 S.E.2d 118 (1990). CUCA noted that it is aware of the Commission's Order of October 9, 2014 in Docket No. M-100, Sub 138, specifically in regard to single-issue ratemaking. CUCA noted that the Commission Order stated, in part, as follows:

[7] The evidentiary hearing was subsequently set to begin on March 5, 2018. The Commission issued its Order Accepting Stipulation, Deciding Contested Issues, and Requiring Revenue Reduction in DEC's rate case proceeding on June 22, 2018.

> However, the ratemaking doctrine against single-issue ratemaking in full force in this state, designed to present changes to utility rates outside general rate cases, should be adhered to except in limited, closely circumscribed situations. The insubstantial and immaterial changes at issue in this docket do not fit within the exception. The limitations should be preserved to prevent single-issue ratemaking in the future when tax rates increase in insubstantial and immaterial ways.

CUCA stated that it has estimated the monetary value of this tax rate change to be approximately $116.9 million annually for DEP and $182.4 million annually for DEC. CUCA maintained that these values translate into rate changes for DEC and DEP of 3.55% and 3.66%, respectively. CUCA noted that it has provided the calculations of the values in Appendix 1 as attached to its initial comments. CUCA stated that it did not estimate the rate changes for DENC, PSNC, Piedmont, or Frontier but that CUCA believes that the rate changes for DENC and the three gas utilities will be in the same percentage range as the above-stated rate changes for DEC and DEP. CUCA asserted that in keeping with the Commission's decision in Docket No. M-100, Sub 138, CUCA argues that the rate changes at issue due to the federal tax changes are both substantial and material and do not entail single-issue ratemaking as previously discussed by the Commission.

CUCA stated that it also recognizes that the Commission has previously addressed the issue of EDIT in Docket No. M-100, Sub 138. CUCA noted that the Commission, in that docket, required the establishment of a regulatory liability account for the EDIT that would be addressed in the next rate case for each of the Companies. CUCA stated that it has estimated the issue of EDIT to be approximately $875 million for DEP and over $1.6 billion for DEC. CUCA stated that it estimated these amounts based upon values found in the FERC Form 1 reports of DEP and DEC allocated to the North Carolina retail consumer and from Form E-1, item 45A of the ongoing DEP and DEC rate cases. CUCA stated that given the fact that DEC and DEP have pending rate cases before the Commission, CUCA requested that the Commission address the issue of EDIT in these ongoing cases.

CUCA requested that the Commission order: (1) the creation of a deferred account to capture all of the changes related to the difference between revenues billed under rates now in effect relative to the attendant cost of service based on the federal income tax component from 35% to 21%; (2) an immediate reduction of rates paid by consumers to account for the change in federal income tax rates from 35% to 21%; (3) the creation of a regulatory liability account for each Company to address the change in EDIT as a result of the recent federal tax rate change; and (4) that the issue of EDIT be addressed in the pending DEC and DEP general rate cases.

The **Low-Income Advocates** asserted that the crucial question before the Commission in this docket is how best to take advantage of the tax cut for the benefit of customers. The Low-Income Advocates maintained that several principles should guide the Commission's determination.

First, the Low-Income Advocates stated that excess revenues due to the reduction in the public utilities' cost of service should not accrue to the Companies' shareholders. The Low-Income Advocates noted that because a utility is authorized a rate of return from captive retail ratepayers, its shareholders are insulated from the fluctuations of the markets. The Low-Income Advocates stated that allowing utility shareholders to reap the benefits of the tax cut would result in a windfall.

Next, the Low-Income Advocates maintained that the public utilities should not be allowed to keep any excess revenues they collect (or have collected) through existing rates and spend those ratepayer dollars however they want for capital or operating expenses.

The Low-Income Advocates also stated that although the Commission has the authority to reduce rates to account for the impact of the tax cut on the public utilities' cost of service, the Commission should not simply order utilities to reduce their rates to account for the entire impact of the tax cut, or to flow all of the over-collections due to the tax cut to their customers in the form of rebates or decrement riders. The Low-Income Advocates asserted that the reduction in the federal corporate income tax has a material and substantial impact on the public utilities' cost of service; therefore, adjustment of rates in light of the tax cut outside a general rate case would not run afoul of the prohibition on single-issue ratemaking in conflict with the Nantahala case.

In addition, the Low-Income Advocates maintained that the utilities should be required to invest some portion of the tax savings for the residential class in measures that reduce customer bills. For example, the Low-Income Advocates stated, the Commission could require electric and natural gas utilities to invest a portion of the tax savings in energy efficiency programs for low-income customers. The Low-Income Advocates noted that because each dollar invested in energy efficiency yields up to four dollars in cost savings to the utility's system[8], directing a portion of utilities' tax savings to such programs would have a greater "bang for the buck" than simply reducing utility rates. The Low-Income Advocates maintained that, similarly, water utilities could be required to invest in water-conservation programs. The Low-Income Advocates stated that such investments would yield greater bill reductions than a simple rate reduction or rebate.

Finally, the Low-Income Advocates maintained that if rates for residential customers are reduced, the Commission should not simply order an across-the-board reduction in rates and charges for the class. Instead, the Low-Income Advocates argued,

[8] The Low-Income Advocates cited ACEEE, Press Release, New Report Finds Energy Efficiency is America's Cheapest Energy Resource (Mar. 25, 2014), http://aceee.org/press/2014/03/new-report-finds-energy-efficiency-a. "Each dollar invested in electric energy efficiency measures yields $1.24 to $4.00 in total benefits for all customers, which include avoided energy and capacity costs, lower energy costs during peak demand periods like heat waves, avoided costs from building new power lines, and reduced pollution."

the Commission should examine whether it is appropriate to require greater reductions in fixed, monthly charges than in the volumetric rate.

The Low-Income Advocates noted that the information that the Commission has directed the utilities to file in their initial comments regarding the impact of the tax cut on their cost of service will assist the Low-Income Advocates in formulating a proposal for how the tax cut monies should be spent for the benefit of low-income residential customers. The Low-Income Advocates stated that they therefore intend to put forth such a proposal in their reply comments.

The **Public Staff** stated that it believes it is permissible for the Commission to address the effects of the Tax Act through this docket. The Public Staff maintained that the Tax Act will result in a significant reduction in the federal corporate income taxes paid by most, if not all, utilities regulated by the Commission. The Public Staff further noted that this reduction will, in turn, result in a reduction in the cost of providing public utility services to North Carolina customers, which the Public Staff believes is sufficiently substantial and material to justify an exception to the doctrine against single-issue ratemaking.

The Public Staff stated that, at a minimum, the items addressed by the Commission in this docket should include: (1) a reduction in rates to reflect the reduction in the federal corporate income tax rate; (2) the flowback to customers of EDIT; and (3) the effects of changes to the taxability of Contributions in Aid to Construction (CIAC), all of which are results of the Tax Act.

Finally, the Public Staff stated that it anticipates that individual utilities may raise unique issues related to the impacts of the Tax Act. The Public Staff stated that it will address these issues in reply comments.

REPLY COMMENTS

Electric Utilities

DEC/DEP stated that in their initial comments, the Companies identified the amount of reduction in annual revenue requirements related to reduced income tax expense resulting from the Tax Act and presented the Commission with a balanced solution to reflect the benefits of the Tax Act through options that will lower customer bills in the near-term, help mitigate volatility due to future rate increases, and uphold the Companies' pre-Tax Act credit quality for the benefit of customers. DEC/DEP noted that based upon the cost of service studies, from Docket Nos. E-7, Sub 1026 and E-2, Sub 1023, respectively, the Companies estimated reductions in the annual revenue requirement of $104 million for DEP and $172 million for DEC, and translated that into a decrement rate per kilowatt hour, based on the kilowatt hours in those cases. DEC/DEP stated that based on the DEP NC 2013 rate case, the total tax expense savings is $104 million. DEC/DEP noted that DEP will not know the level of tax expense savings based on the pending rate case until the Commission order is received[9]. DEC/DEP noted that the difference between the actual amount of tax expense savings based on the rates set in Docket No. E-2, Sub 1142 and the $104 million would be deferred into a regulatory liability account for consideration in a future proceeding. DEC/DEP further noted that based upon the DEC NC 2013 rate case, the total tax expense savings is $172 million. DEC stated that it will not know the level of tax expense savings based on the pending rate case until the Commission order is received. DEC/DEP noted that the difference between the actual amount of tax expense savings based on the rates set in Docket No. E-7, Sub 1146 and the $172 million would be deferred into a regulatory liability account for consideration in a future proceeding.

DEC/DEP noted that in the current DEC rate case proceeding, DEC proposed to apply the decrement to North Carolina retail services beginning January 1, 2018, and defer the resulting amount into a regulatory liability until new rates can be established in its currently pending rate case. DEC/DEP further noted that DEC provided additional detail in its rebuttal testimony of witnesses David Fountain, Stephen DeMay, and Jane McManeus filed on February 6, 2018 in Docket No. E-7, Sub 1146.

DEC/DEP noted that in DEP's rate case proceeding, DEP proposed to apply the decrement to North Carolina retail services beginning January 1, 2018, and defer the resulting amount into a regulatory liability until new rates can be established in its next general rate case, or in the alternative to reduce rates in a rider to be established by the Commission in this generic docket. DEC/DEP proposed options to help mitigate future rate increases by applying the federal income tax expense savings to offset items such as storm response costs, ongoing coal ash basin closure compliance costs or other environmental compliance costs, or accelerating the depreciation of certain assets such as the existing AMR meters or coal plants. DEC/DEP asserted that nothing in the intervenors' initial comments changes the Companies' recommendation that the Commission should implement a balanced solution to ensure that customers receive the benefits of tax reform.

DEC/DEP noted that the Public Staff, the Attorney General's Office, CIGFUR, and the Low-Income Advocates, in their initial comments, all agree with DEP and DEC that customers should receive the benefits of federal tax reform. DEC/DEP stated that to the extent that these intervenors are asking for the Commission to reduce customer rates and the Companies' revenues immediately for 100% of the benefits of the Tax Act, however, they do so without regard to the utilities' current financial position and other relevant factors. DEC/DEP asserted that rate decreases pursuant to federal tax reform will decrease cash flows, which will weaken credit metrics. DEC/DEP argued that the weakened metrics will reduce financial flexibility and could ultimately result in increased financing costs, which, in turn, impact customer bills. DEC/DEP maintained that in a tangible sign of this risk, on January 19, 2018, Moody's changed the rating outlook of Duke Energy Corporation and 23 other utilities and utility holding companies from stable

[9] The Commission issued the DEP rate case Order on February 23, 2018.

to negative in response to the financial impacts of the Tax Act and regulatory uncertainties related thereto.

DEC/DEP stated that as discussed in their initial comments, one of the consequences of the Tax Act is that the lower tax rate and the elimination of bonus depreciation will increase the Company's rate base over time, which has the corresponding effect of increasing customer rates over time. DEC/DEP maintained that they have proposed that the Commission could mitigate these impacts by offsetting items such as storm response costs, ongoing coal ash basin closure compliance costs or other environmental compliance costs, or accelerating the depreciation of certain assets such as the existing AMR meters or coal plants. DEC/DEP noted that the accelerated depreciation would be accomplished by creating a North Carolina retail regulatory liability. DEC/DEP stated that that liability would then be used to reduce depreciation expense on the specific asset or group of assets the next time depreciation rates are updated, similar to the way that the DEP Harris Nuclear Plant accelerated depreciation was used to reduce depreciation expense in Docket No. E-2, Sub 1023. DEC/DEP asserted that the use of accelerated depreciation would benefit customers by lessening future rate increases caused by rate base growth resulting from the Tax Act. DEC/DEP stated that their proposed response to the federal tax reform, therefore, provides the Commission with an opportunity to help reduce and smooth out volatility in customer rates over the short- and long-term, while maintaining the Companies' pre-Tax Act credit quality for the benefit of customers.

DEC/DEP requested that the Commission approve and adopt their recommendations to deliver savings to customers in a manner that balances the interests of customers and the Companies.

DENC stated that it agrees with the Public Staff and certain other parties that the enactment of the Tax Act has a material impact on the Company's future cost of service and should benefit North Carolina ratepayers through lower utility rates. DENC maintained that given the magnitude of the Tax Act's impact on the Company's future cost of service, DENC recognizes that the Commission may deem it appropriate to expeditiously address the federal corporate income tax changes through a rulemaking procedure under the Public Utilities Act. DENC noted that the 1990 North Carolina Supreme Court Nantahala decision established the Commission's authority under the Public Utilities Act to require single-issue ratemaking adjustment by rulemaking procedure outside of a general ratemaking process to pass through a similarly material reduction in federal corporate income tax rates.

DENC maintained that it recognizes the Public Staff's and other parties' objective of ensuring that provisionally-collected amounts are expeditiously recognized in the Company's utility rates. However, DENC asserted that efficiencies would be achieved by comprehensively addressing all federal income tax issues in the Company's next general rate case. DENC stated that to balance these interests, the Company commits to filing a single-issue adjustment to its base rate cost of service on or before June 30, 2019, if the Company has not filed a general rate case as of that date.

DENC asserted that for the Company's non-base rates and charges with approved deferral accounting and experience modification factors (i.e., fuel factor, riders for the Company's demand-side management programs and energy efficiency program costs, and Renewable Energy and Energy Efficiency Portfolio Standard compliance costs), the Company continues to recommend addressing the impact of the Tax Act in upcoming annual rider proceedings where applicable.

DENC also maintained that with regard to addressing excess deferred federal income taxes associated with the Tax Act's federal corporate income tax rate reduction, the Company also recommends that the Commission address the effect of the EDIT in the Company's next general rate case. DENC argued that this approach will ensure that ratepayers receive the benefit of EDIT created by the Tax Act, while also preserving the Company's ability to deduct accelerated depreciation on its federal income tax returns for the benefit of ratepayers. DENC stated that as explained in the Company's initial comments, the predominant portion of EDIT is subject to the IRC's normalization rules. DENC maintained that certain tax technical issues have yet to be resolved and additional guidance from the IRS is expected. DENC argued that addressing the ratemaking treatment of EDIT in the Company's next general rate case rather than through rulemaking allows for additional time to resolve these issues to ensure that the Company's rates and charges are maintained in accordance with the IRC's normalization rules.

DENC opined that provisional recovery and deferral accounting combined with its commitment to file a single-issue proceeding to address these impacts by June 30, 2019, if it has not yet filed a base rate case, appropriately balances the desire to expeditiously pass the benefits of the Tax Act to ratepayers with the Company's approach to efficiently adjusting its rates and charges to comprehensively address all base rate cost of service impacts resulting from the Tax Act. DENC maintained that if the Commission determines that it is appropriate to reduce utility rates through a rulemaking procedure on a more accelerated schedule, the Company recommends that the Commission only order DENC to adjust the income tax expense portion of operating income in the Company's cost of service and leave the other elements of the tax changes enacted in the Tax Act for review in the Company's next general rate case. DENC stated that, in any case, it stands ready to work with the Public Staff and to take whatever action the Commission directs to provide the benefits of the Tax Act to the Company's customers.

<u>Natural Gas Utilities</u>

<u>Piedmont</u> noted that it proposes to flow-through tax reductions under its IMR mechanism, while deferring tax rate reductions on its base rates until its next general rate case proceeding where such deferral can be amortized and used to offset any requested base rate increase in that docket. Piedmont stated that for excess deferred income taxes, it proposes to establish a regulatory liability and, similar to the Commission's treatment of excess deferred income taxes in Docket No. M-100, Sub 138, would propose that these liabilities be addressed in the Company's next general rate proceeding as well.

Piedmont asserted that while some intervenors request that the Commission reduce customer rates and the utilities' revenues immediately to account for 100% of the impacts of the Tax Act, Piedmont submits that its proposals represent a more balanced approach. Piedmont recommended that customers receive an immediate benefit in the form of savings under the Tax Act through rate reductions commencing with its upcoming June 1, 2018 IMR rate adjustment, but that tax rate reductions on its base rates be deferred until its next general rate case proceeding.

Piedmont proposed to defer some of the savings associated with the Tax Act because customers benefit directly from a strong balance sheet and strong investment grade credit ratings through low cost of capital and strong access to capital during all market conditions. Piedmont stated that adopting an immediate pass-through of only the benefits under the Tax Act, in isolation and to the exclusion of other provisions of the Tax Act, would be detrimental to Piedmont's long-term financial stability and credit ratings. Piedmont noted that as an example of this type of impact of the Tax Act, on January 19, 2018, Moody's changed the rating outlook of Piedmont and 23 other utilities and utility holding companies from stable to negative in response to the financial impacts of the Tax Act and regulatory uncertainties related thereto. Piedmont stated that, in addition, one attribute of the Tax Act is that it will increase rate base at a faster rate than has been experienced in recent years due to the elimination of bonus depreciation for new capital investment going forward. Piedmont asserted that preserving the benefits of a lower tax rate until Piedmont's next general rate case will serve as a natural hedge against increasing rate base and help stabilize customer rates over the long run.

Piedmont maintained that, thus, in order to minimize the negative impacts of the Tax Act on Piedmont's cash flows and credit quality in the long run and stabilize customer rates, Piedmont fully supports the adoption of a balanced approach that provides customers some benefits now, and some later.

<u>Water/Wastewater Utilities</u>

No water/wastewater utility filed reply comments.

<u>Other Parties</u>

The **<u>Attorney General</u>** stated that many of the utilities do acknowledge in their initial comments that ratepayers should benefit from the recent reductions in the federal corporate income tax rate. However, the Attorney General maintained that the Commission should not adopt proposals put forth by utilities that would prevent consumers from receiving these benefits fully and immediately, as opposed to on a delayed basis.

The Attorney General asserted that as a matter of public policy, utility service should be economical, rates should be just and reasonable, and where a major change in federal taxes has had a substantial effect on the cost of public utility service, across all utilities, it is appropriate to flow through the benefit to North Carolina ratepayers.

The Attorney General noted that when Congress passed the Tax Reform Act of 1986, the Commission found that the significant reduction to the tax rate would have an immediate and favorable impact on the cost of providing public utility services to consumers in North Carolina and concluded that it was incumbent on the Commission to take the appropriate action as required so as to preserve and flow through to ratepayers, as a reduction to public utility rates, any and all cost savings realized in this regard which would otherwise accrue solely to the benefit of the stockholders. The Attorney General further noted that the North Carolina Supreme Court, affirming the Commission's final decision in that proceeding, observed that the purpose of the Commission's proceeding in 1986 was to take the effect of the reduction in tax rates and flow it through to the ratepayers. The Attorney General asserted that by responding quickly through the rulemaking proceeding, significant over-collections by public utilities were avoided and customers benefitted from prompt rate reductions.

The Attorney General maintained that, undeniably, as the Commission indicated in its January 3, 2018 Order initiating this proceeding, the impact of the recent reduction in the federal corporate income tax rate from 35% to 21% has a substantial downward impact on the cost of service for utilities. The Attorney General argued that, nevertheless, contrary to the long-standing North Carolina legal authorities and principles of sound ratemaking, many of the initial comments filed by investor-owned utilities indicate that they do not support promptly flowing through the full benefits of the December 22, 2017 enactment of the Tax Act in utility rate reductions to ratepayers. The Attorney General stated that, instead, most of the utilities propose to make accounting entries that defer part or all of the over-collection of income taxes to be considered in future rate proceedings. The Attorney General asserted that these proposals are not acceptable.

The Attorney General stated that the investor-owned public utilities in their initial comments do acknowledge that utility ratepayers should benefit from the changes in the federal corporate income tax rate; however, by and large they want to (a) delay as long as possible returning money collected from ratepayers for past income tax over-collections, (b) continue to over-collect income taxes until their next rate cases, and (c) avoid telling ratepayers the magnitude of these past and continuing over-collections.

The Attorney General noted that, for example, DEC/DEP stated in their initial comments that it is the Companies' intent that customers will receive the benefits of tax reform. However, the Attorney General maintained, despite the fact that both of the Duke Energy North Carolina subsidiaries have pending general rate cases, Duke has only supplied information in this proceeding from rate cases that used test years that are several years old, and also has suggested using deferral accounting, instead of a prompt rate reduction, to address part of the adjustment to cost of service revenues. The Attorney General stated that, further, DEC/DEP do not identify how much the Companies hold in accounts for ADIT, do not report the EDIT amount that they have accrued based on the reduction in federal income taxes, and do not propose to return any of the EDIT amounts to ratepayers until they file future general rate cases. The Attorney General maintained that instead, DEC/DEP propose to hold onto those excess funds, apparently for several years, as cost-free capital.

The Attorney General observed that other utilities also suggest limiting or deferring the benefit of income tax reform rather than flowing it through to ratepayers promptly. The Attorney General noted that DENC proposed to defer the amount that is accounted for provisionally, relating to the impact of tax reform on cost of service, and to hold onto the excess amount that has accrued in deferred income taxes for consideration in its next general rate case. The Attorney General noted that CWSNC made a similar proposal, and that Piedmont proposed to defer the benefits of tax reform for consideration in a future general rate case, other than with respect to revenues that are recovered in periodic surcharges for the Integrity Management Rider. The Attorney General specified that, like DEC/DEP, Piedmont did not reveal the current balances of ADIT and EDIT accounts.

The Attorney General argued that allowing utilities to hold onto the excess is particularly unreasonable if the utility has a pending general rate case or if rates were recently established. The Attorney General stated that DEC has acknowledged that it is appropriate to address the effect of tax reform in the pending DEC general rate case, but suggests that it is not appropriate to address tax reform in the pending DEP case because the evidentiary hearing has already been held in that case. The Attorney General asserted, however, that the fact that the evidentiary hearing has already occurred in the DEP case should not postpone action until another rate case is filed years from now. The Attorney General argued that the effects of the changes in the tax law are known and measurable, and may be addressed either in late-filed exhibits or by identifying the increment in rates relating to the Tax Act as provisional, pending further consideration and determination similar to the provisional treatment ordered in this proceeding. The Attorney General maintained that, alternatively, the rates established in the general rate case may be adjusted subsequently by findings made in this rulemaking proceeding with reliance on factors determined in the rate case proceeding.

The Attorney General argued that the Commission should not be persuaded to delay rate reductions based on the justification offered by DEC/DEP for continuing to over-collect from ratepayers and to delay returning over-collections. The Attorney General stated that DEC and DEP contend that prompt action to flow over-collected taxes back to customers will affect DEC/DEP's cash flow and may therefore harm ratepayers. The Attorney General maintained that it appears from DEC/DEP's comments that DEC/DEP and other utilities have experienced high cash flows in recent years in part because their rates are established based on the inclusion in their revenue requirements of the full federal corporate income tax rate, whereas income taxes actually incurred and paid may be significantly less than that due to bonus depreciation and other factors. The Attorney General stated that DEC/DEP's comments propose to continue over-collecting the known and measurable adjustment to its expense for income taxes because of a hypothetical impact that rate reductions and the return of excess funds would have on DEC/DEP's credit rating. The Attorney General asserted that the fact that Moody's has placed Duke Energy Corporation on a credit watch for possible downgrade does not mean that the credit ratings of Duke Energy or its North Carolina subsidiaries will suffer. The Attorney General argued that far less does it provide evidence of the extent or effect of such a downgrade. The Attorney General maintained that Duke's credit rating is high relative to many of its peers, and the effect of a slight downgrade would be small relative to the benefit ratepayers receive from a rate reduction and the return of excess funds held by Duke. The Attorney General stated that DEC/DEP's argument unfairly seeks to maintain unreasonably high utility rates merely to prop up DEC/DEP's cash flow, without any attempt to weigh the relative benefits and harms that its proposal would have on ratepayers.

The Attorney General noted that DEC/DEP suggest that the substantial beneficial impact of the federal corporate income tax rate reduction provides headroom for the Commission to allow rate increases that DEC and DEP support but other parties have disputed, such as for high coal ash costs, storm costs, and accelerated depreciation of some meters. The Attorney General argued that, however, ratepayers will not benefit if income tax-related utility rate reductions are used to mask unreasonable cost recovery proposals.

The Attorney General maintained that as a result of the scant information provided by the utilities in their initial comments, the public and the Commission do not know how much EDIT have been accrued. The Attorney General argued that, however, this information is known to the utilities because publicly-traded utilities must report this data in their annual reports to shareholders, and the information should be reported and considered in this docket as well. The Attorney General maintained that the amount of EDIT may be very large. The Attorney General further noted that according to an estimate provided in comments filed by CUCA, based on FERC Form 1 filings, DEC has over $1.6 billion of excess accrued deferred income taxes allocated to North Carolina retail customers, and DEP has approximately $875 million.

The Attorney General argued that the utilities' proposals are unjust and unreasonable to ratepayers. The Attorney General stated that to the extent that the cost of service effect associated with the lower corporate income tax rate is not flowed through in rates, utilities will continue to over-collect revenues, and customers will continue to be forced to pay excessive rates to build up utility accounts that essentially lend cost-free capital for utility operations. The Attorney General stated that, similarly, if the utilities' proposals are accepted and they are allowed to retain the funds they are currently holding in EDIT accounts, i.e., excess deferred income taxes that were collected in earlier years when the federal income tax rate was higher than it is following the Tax Act, then the utilities would continue to maintain these excess funds as cost-free capital. The Attorney General argued that not returning dollars to consumers who struggle to pay their bills, or to consumers who would use their money for different purposes if given the opportunity, results in an undue burden on ratepayers and communities in North Carolina.

The Attorney General requested that the Commission take prompt action to require the utilities to provide a full accounting of the past and present extent of over-collection of taxes and then to order immediate utility rate reductions that reflect the full impact of the federal income tax reduction on cost of service and that return excess deferred income taxes that have accrued as soon as allowed under federal tax law.

CIGFUR noted that because income taxes are a major component of utility revenue requirements, the Tax Act will have a substantial and material impact on public utilities' revenue requirements and consequently on the ratepayers of these utilities. CIGFUR stated that DENC estimated in its initial comments that its annual North Carolina jurisdictional income tax expense will decrease by approximately $10.8 million with a corresponding increase to operating income of the same amount beginning January 1, 2018. CIGFUR also noted that DEC/DEP estimated in their initial comments that the Tax Act results in a reduction of $104 million in DEP's annual revenue requirement and a reduction of $172 million for DEC.

CIGFUR argued that the Commission should adjust customer rates to pass tax savings onto ratepayers in the form of rate decreases as soon as practicable. CIGFUR maintained that DENC acknowledged that it is now treating the federal corporate income tax component of its existing approved rates and charges as provisional and will hold the amounts in a deferred account. CIGFUR stated that DENC proposed to address the cost of service impacts and disposition of deferred amounts due to the Tax Act through its next general rate case. CIGFUR further stated that with respect to DEP, the Company proposed to defer the tax savings to a regulatory liability, until DEP's next rate case, but also offers an alternative that the Commission could approve a rider in this generic docket (Docket No. M-100, Sub 148) to reduce DEP customer rates. CIGFUR noted that with respect to DEC, the Company proposed that federal tax reform impacts should be addressed in its pending general rate case, Docket No. E-7, Sub 1146.

CIGFUR maintained that it supports implementing the federal corporate income tax reduction through the general rate case process for utilities with pending general rate case proceedings, and thus supports DEC's proposal to address the Tax Act through its pending rate case, Docket No. E-7, Sub 1146. However, CIGFUR stated that it opposes DENC's and DEP's proposals to defer cost savings until their next general rate cases, which may not occur for several years. CIGFUR rather recommended that the Commission consider the holistic impact of the Tax Act and adjust customer rates to pass tax savings onto ratepayers in the form of rate decreases as soon as practicable.

CIGFUR further stated that EDIT should be refunded to ratepayers through a decrement rider as soon as practicable. CIGFUR maintained that in the early years of a given capital asset, the utility collects more in tax expense from ratepayers than it pays out to the IRS due to the difference in accelerated depreciation for tax purposes and straight-line depreciation for ratemaking purposes. CIGFUR noted that that situation reverses once the ratemaking depreciation expense begins to exceed the tax depreciation. CIGFUR asserted that assuming that tax rates stay constant over the life of a capital asset, the total tax expense paid by the ratepayers to the utility should match the tax expense the utility pays the IRS. CIGFUR stated that as a result of the differences in depreciation timing and because tax funds are ratepayer supplied, in the early years of a given capital asset ratepayers provide the utility an interest-free loan, reflected as a credit to the utility's ADIT liability account.

CIGFUR maintained that due to the Tax Act, DENC's, DEP's, and DEC's future tax liabilities will not be as high as anticipated when rates were originally designed. CIGFUR stated that the amount by which DENC's, DEP's, and DEC's current ADIT balances exceeds their future income tax liability as a result of the Tax Act are the EDIT at issue. CIGFUR noted that further, until the Commission adjusts utility rates to reflect the new lower tax rate, the utilities will continue to collect excess income tax from ratepayers at the 35% tax rate, which the Commission approved for DENC, DEP, and DEC in Docket Nos. E-22, Sub 532, E-2, Sub 1023, and E-7, Sub 1026, respectively.

CIGFUR asserted that these EDIT should be promptly flowed back to ratepayers; however, DENC, DEP, and DEC argue against returning EDIT to ratepayers in a timely manner and instead propose to defer their EDIT as regulatory liabilities until their next general rate cases. CIGFUR stated that it opposes long-term deferral of EDIT and proposes that, concurrent with the immediate rate reductions discussed in its reply comments, the Commission establish a decrement rider for each utility to refund EDIT to ratepayers over a two or three year period.

CIGFUR concluded by stating that it opposes the long-term deferral of tax savings and proposes that as soon as possible the Commission reduce customer rates to pass the substantial and material benefits of the Tax Act onto ratepayers and concurrently establish decrement riders to refund EDIT.

The **Low-Income Advocates** stated that the crucial question before the Commission remains how best to take advantage of the federal tax cut for the benefit of customers. The Low-Income Advocates asserted that the Commission should reject the utilities' proposals to retain the benefits of the tax reduction. The Low-Income Advocates maintained that the Commission should not follow DEC/DEP's, DENC's, or Piedmont's recommendations. The Low-Income Advocates noted that, first, in the case of DEC/DEP, their pending rate cases are not yet decided. The Low-Income Advocates argued that it would be premature to set aside funds that belong to customers now for costs that have not yet been authorized by the Commission as an appropriate cost of service. The Low-Income Advocates stated that even though an order from the Commission in the DEP rate case is likely to be issued soon[10], given the possibility of appeal, the contested issues will not likely be fully resolved for some time. The Low-Income Advocates noted that Duke and the other regulated public utilities should not be allowed to continue over-collecting or to hold on to previously over-collected deferred taxes pending the resolution of those contested issues.

The Low-Income Advocates noted that, moreover, even if all of the contested issues were quickly resolved in DEP's and DEC's pending rate cases, the basis for those rates would include outdated figures for tax collections within the utilities' base rates, and would thus lead to an over-collection and inflated rates for customers unless they were adjusted by the Commission. The Low-Income Advocates stated that, in addition, the longer the lag time in adjusting rates to account for the dramatically reduced tax liabilities

[10] The Commission issued the DEP rate case Order on February 23, 2018.

faced by the utilities, the greater chance that some ratepayers will not receive any benefit from the utilities' tax cut. The Low-Income Advocates maintained that, for example, a Duke customer who paid rates over the last several years was over-paying for both excess accumulated deferred income taxes and, since January 1, 2018, for the income-tax component of Duke's cost of service. The Low-Income Advocates stated that if that customer moves out of Duke's service territory before any adjustments are made by the Commission, the customer will never recoup those overpayments.

The Low-Income Advocates asserted that the Commission should direct the utilities to use the tax savings to reduce fixed monthly charges. The Low-Income Advocates urged the Commission to require the utilities, as soon as practicable, to first apply the tax reductions to reduce utilities' fixed, monthly charges. The Low-Income Advocates stated that this will not only lower customers' bills, it will maximize the chance that low-income customers, who are disproportionately low-volume customers, receive the full value of benefit from such a reduction. The Low-Income Advocates maintained that applying the reductions to the fixed charges also guarantees that all customers will get an equal benefit from the reduced rates. The Low-Income Advocates stated that otherwise, high-volume users would potentially see a greater reduction in their bills than would a low-volume user.

The Low-Income Advocates recommended that the Commission order a portion of the previously over-collected taxes (EDIT) to flow back to ratepayers in the form of investments in low-income efficiency programs. The Low-Income Advocates asserted that the accumulated deferred income taxes have already been collected from customers, and given the change in the federal corporate income tax rate enacted by Congress, have been over-collected. The Low-Income Advocates stated that this excess is now a regulatory liability that should be returned to customers. The Low-Income Advocates noted that consistent with the requirements for the normalization method of accounting for deferred taxes for regulated public utilities, the public utilities in this docket should return the difference between the deferred income taxes accounted for under the higher federal corporate income tax rate under prior law and the lower rate that was recently established in the Tax Act. The Low-Income Advocates asserted that a portion of the EDIT should be returned to ratepayers in the form of direct investments in low-income energy efficiency. The Low-Income Advocates noted that based on the initial comments it is not clear what the total change in the EDIT will be over the next several years, or how fast the utilities can return the over-collected deferred income taxes to ratepayers under normalization rules. The Low-Income Advocates stated that at a minimum, it would be reasonable for the public utilities to invest at least 25% of EDIT for low-income efficiency.

The Low-Income Advocates further stated that for DEP and DEC, this objective can most readily be achieved by directing a portion of their EDIT to the Helping Home Fund, a program administered by the North Carolina Community Action Association that supplements the federal Weatherization Assistance Program by providing efficiency upgrades to low-income households. The Low-Income Advocates asserted that there is precedent for using a regulatory liability for the benefit of retail customers to fund energy-efficiency investments for the utility's low-income customers. The Low-Income

Advocates noted that the Helping Home Fund was itself established out of a $20 million regulatory liability from DEP (in the context of its 2013 general rate case proceeding stipulation) for the benefit of its North Carolina low-income residential customers.

The Low-Income Advocates maintained that as to DENC, it could replicate the Helping Home Fund in DENC's North Carolina territory with the assistance of community action agencies that operate in the Northeast corner of the State. The Low-Income Advocates stated that the gas and water utilities could direct a portion of EDIT to their existing efficiency programs for low-income customers, or propose alternative methods for making direct investments in low-income efficiency programs.

The Low-Income Advocates stated that there are several sound policy reasons for using some of the already over-collected tax revenues for targeted investment in low-income energy efficiency rather than rebates or a decrement rider.

The Low-Income Advocates maintained that based on an ACEEE 2014 Press Release (http://aceee.org/press/2014/03/new-report-finds-energy-efficiency-a) each dollar invested in energy efficiency yields up to $4 in benefits for customers. The Low-Income Advocates asserted that, based on information in the same ACEEE Press Release, investments in energy efficiency reduce customer bills, lower energy costs during periods of high demand, avoid or defer the need to build or upgrade power plants and transmission infrastructure, and reduce air and water pollution. The Low-Income Advocates stated that energy efficiency is the least-cost energy resource; the energy savings achieved through energy efficiency programs are approximately one-half to one-third the cost of generating the same amount of electricity from traditional sources such as fossil fuels.

The Low-Income Advocates stated that low-income households are more likely than the average household to have older and less efficient appliances. The Low-Income Advocates further noted that low-income households, minority households, renting households, and low-income households residing in multifamily buildings experience higher than average energy burdens, meaning that they pay a higher percentage of their income on energy bills. The Low-Income Advocates asserted that the Southeast faces some of the highest energy burdens in the nation and that households with high energy burdens must face difficult trade-offs between paying utility bills and paying for other necessities such as food, prescriptions, transportation, and medical care. The Low-Income Advocates noted that utility investments in energy efficiency help to alleviate high energy burdens faced by low-income households while bringing system-wide benefits that are shared by all customers.

The Low-Income Advocates urged the Commission to use the reduced income tax portion of the public utilities' cost of service to lower customer bills as soon as possible. The Low-Income Advocates asserted that this should take the form of lower fixed, monthly charges for residential customers and for a portion of the EDIT, the utilities should make investments in efficiency measures that directly benefit low-income customers, such as the Helping Home Fund.

__Nucor__ noted that it owns and operates a steel recycling facility located in Hertford County, North Carolina, that produces steel plate. Nucor stated that it is a customer of DENC and takes service pursuant to a special contract for electric service, as amended, subject to the jurisdiction of the Commission. Nucor maintained that it, therefore, reviewed DENC's initial comments in this proceeding and has concerns regarding DENC's planned ratemaking in response to the Tax Act.

Nucor noted that DENC indicated that it will comprehensively address all impacts from the Tax Act as part of its updated cost of service filed in the Company's next general rate case. Nucor asserted that DENC's proposed approach is inadequate and objectionable.

Nucor argued that DENC makes no commitment as to when it will file its next general rate case application[11]. Further, Nucor stated that DENC initiated its last general rate case, Docket No. E-22, Sub 532, on March 31, 2016. Nucor noted that that proceeding was not resolved until issuance of the Commission's Order on December 22, 2016. Nucor asserted that the inherent delay in flowing through the federal tax reductions to DENC's customers via a speculative and lengthy general rate case proceeding is unwarranted and would be unfair to DENC's customers.

Nucor stated that as the Attorney General correctly observes, this is not the first time the Commission has dealt with this very issue. Nucor noted the 1990 North Carolina Supreme Court decision concerning the Commission's treatment of the 1986 Federal Tax Act.

Nucor maintained that the Commission has the authority to address the tax reduction resulting from the Tax Act outside of a general rate case and should do so with respect to DENC. Nucor asserted that the Commission should require that DENC pass through the benefits of the federal tax changes to DENC's ratepayers in a timely manner.

The **__Public Staff__** maintained that Toccoa, in its initial comments, noted that, as a municipally-owned natural gas system, it is not subject to income and other tax obligations. The Public Staff further noted that Toccoa asserted that, consequently, no tax allowances were included in the determination of Toccoa's revenue requirement when its rates were established, and no adjustment to its rates are required as a result of the Tax Act. The Public Staff stated that, for the reasons set forth in Toccoa's comments, it agrees that no adjustment should be made to Toccoa's rates in response to the tax reduction in the Tax Act.

The Public Staff commented that based on its review of the Tax Act and the initial comments of the other parties, it has the following proposals.

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[11] In its reply comments, DENC committed to filing a single-issue adjustment to its base rate cost of service on or before June 30, 2019 if the Company has not filed a general rate case as of that date.

The Public Staff recommended that the Commission seek to resolve issues raised in this docket in any pending general rate cases for the utilities subject to the provisions of this docket (the subject utilities). The Public Staff stated that currently, DEC has a pending rate case in Docket No. E-7, Sub 1146. The Public Staff recommended that the issues raised in this docket be addressed in that general rate case.

Further, the Public Staff stated that it does not oppose Aqua's request to resolve the issues raised in this docket related to the income tax changes resulting from the Tax Act in the general rate proceeding it intends to file, provided Aqua files a general rate case on or before April 1, 2018[12].

The Public Staff noted that the Commission has dealt with similar issues in two prior Commission proceedings in Docket Nos. M-100, Sub 113 and M-100, Sub 138. The Public Staff commented that in Docket No. M-100, Sub 113, the Commission addressed tax reductions from the Federal Tax Reform Act of 1986. The Public Staff maintained that, among other things, the Federal Tax Reform Act of 1986 reduced the top corporate income tax rate from 46% to 34%. The Public Staff stated that in Docket No. M-100, Sub 138, the Commission addressed the tax reductions from House Bill 998 (S.L. 2013-316), which, among other things, changed the net State income tax rate imposed on C Corporations and amended the gross receipts and franchise taxes.

Further, the Public Staff recommended that the Commission direct the subject utilities to reduce their rates to reflect any and all cost savings resulting from the reduction in the federal corporate income tax expense component of the cost of providing utility service as soon as practicable. The Public Staff asserted that the rates for riders should also be reduced in each subject utility's respective annual rider filings to reflect the reduction in the federal corporate income tax rate.

The Public Staff also recommended that the Commission direct the subject utilities to refund the amount collected in the deferred account established by the Commission in this proceeding that represents the difference between revenues billed under the prior federal income tax rate and the federal income tax rate resulting from the Tax Act starting January 1, 2018.

The Public Staff maintained that, as in Docket Nos. M-100, Sub 113 and M-100, Sub 138, the Commission should require that the EDIT resulting from the decrease in the federal corporate income tax rate established in the Tax Act be flowed back to the ratepayers. The Public Staff asserted that the treatment of EDIT in those dockets should provide a framework for the treatment of EDIT created by the Tax Act.

The Public Staff stated that the Tax Act provides that certain EDIT should be flowed back to the ratepayers subject to certain limitations. The Public Staff specified that the EDIT subject to these limitations is generally referred to as the "protected EDIT." The

[12] Aqua filed its general rate case application on March 7, 2018 in Docket No. W-218, Sub 497.

Public Staff noted that the EDIT that is not subject to limitations in the timing of flow back is generally referred to as the "unprotected EDIT."

The Public Staff asserted that the protected EDIT should be flowed back as soon as practicable in accordance with federal tax normalization rules. The Public Staff stated that compliance with federal tax normalization rules slows the return of the protected EDIT to ratepayers as compared to what regulators might otherwise desire. The Public Staff stated that it does not recommend delaying the return of the protected EDIT or in any way further slowing the return of the protected EDIT to ratepayers, other than the delay required under federal law.

The Public Staff further recommended that the flow back of the unprotected EDIT should be addressed in the next general rate case filed by each of the subject utilities, except for those with currently pending general rate cases, as previously noted.

The Public Staff stated that arguments raised by the subject utilities related to cost of capital and cash flow should not be addressed in this docket. The Public Staff argued that absent compelling evidence of financial harm to the utilities, the ratepayers should receive the benefit of the tax reductions from the Tax Act as soon as possible. The Public Staff asserted that cost of capital is appropriately addressed in a general rate case. The Public Staff maintained that if a subject utility believes its cost of capital has changed and earnings are insufficient to achieve the new cost of capital, it should file a general rate case to address this issue.

The Public Staff also noted that the Tax Act changes the taxable treatment of CIAC for water and wastewater companies. The Public Staff stated that this could have a significant impact on water and wastewater companies in that contributed plant is a significant portion of the plant additions by these companies. The Public Staff recommended that the Commission open a new docket to address the implications of the inclusion of CIAC in taxable income for water and wastewater companies. The Public Staff further recommended that the treatment of CIAC should follow the precedent established in Docket No. M-100, Sub 113, and that water and wastewater companies should seek to collect the income tax on CIAC from the contributor using the full gross-up method. The Public Staff recommended that the Commission allow individual companies seeking to use the present value method to do so with prior approval of the Commission. The Public Staff recommended that in opening a new docket, the Commission should provide notice of this change to all water and wastewater companies, not just the utilities subject to this docket, and direct those companies to seek to collect the income tax on CIAC from contributors of plant for new contributions contracted for on or after the date of the opening of that new docket.

The Public Staff also noted that Frontier asserted that its rates are not based on cost of service, and therefore, it should not be subject to this docket. The Public Staff asserted that Frontier has been collecting funds from its ratepayers in order to pay Frontier's federal income tax obligations. The Public Staff stated that the Tax Act reduces the federal tax obligations of Frontier and that its ratepayers should benefit from the reduction in the federal corporate income tax resulting from the Tax Act. Accordingly, the Public Staff recommended that Frontier be subject to the provisions of this docket.

Finally, the Public Staff stated that to implement the recommendations outlined in its reply comments, the Public Staff requested that the Commission direct the subject utilities to file with the Commission and the Public Staff rate reductions to address the changes by March 30, 2018. The Public Staff stated that the subject utilities should also be required to file workpapers with the Commission and the Public Staff to support the rate reduction calculations. The Public Staff maintained that once rates are established, the subject utilities should continue to file quarterly reports on the status of their EDIT deferred account, and the deferral account established under this proceeding that represents the difference between revenues billed under the prior federal income tax rate and the federal income tax rate resulting from the Tax Act starting January 1, 2018.

PUBLIC STAFF CLARIFICATION TO REPLY COMMENTS

The Public Staff noted that on February 20, 2018, it filed reply comments in this docket. The Public Staff maintained that regarding Frontier, the Public Staff stated the following:

> "Frontier asserts that its rates are not based on cost of service, and therefore, it should not be subject to this docket. Frontier has been collecting funds from its ratepayers in order to pay Frontier's Federal income tax obligations. The Act reduces the Federal tax obligations of Frontier and its ratepayers should benefit from the reduction in the federal corporate income tax resulting from the Act. Accordingly, the Public Staff recommends that Frontier be subject to the provisions of this docket."

The Public Staff maintained that in Docket No. G-40, Sub 136, the Commission approved a merger between Frontier and FR Bison Holdings, Inc., subject to certain regulatory conditions. The Public Staff noted that Regulatory Condition #10, provided that the Public Staff would not request a change in Frontier's margin rates unless certain exceptions apply. The Public Staff stated that the Regulatory Condition in its entirety reads:

> "**Rate Case Moratorium.** Neither Frontier nor the Public Staff will request a change in Frontier's margin rates until after December 31, 2021, except as set forth below. For purposes of this provision, the margin rate is defined as the tariff rate less the benchmark cost of gas and temporary increments and/or decrements imposed pursuant to G.S. 62-133.4 or Commission Rule R1-17(k). The exceptions to the moratorium imposed by this Condition are as follows: (a) Should Frontier or the Public Staff believe that Frontier should implement a pipeline safety rate adjustment mechanism pursuant to G.S. 62-133.7A, either party shall have the right to apply to or petition the Commission to initiate a general rate case proceeding; and (b) effective July 1, 2019, should Frontier's rolling twelve-month earned return on average rate base, based on a reasonable pro forma capital structure and

> reasonable regulatory adjustments, exceed 12.00% for two quarters in any consecutive four-quarter period, the Public Staff shall have the right, after notice to and consultation with Frontier's management, to petition the Commission to initiate a general rate case proceeding."

The Public Staff asserted that, consistent with the Regulatory Condition, the Public Staff seeks to clarify that in its comments submitted on February 20, 2018, the Public Staff is not requesting the Commission to change Frontier's margin rates. The Public Staff stated that it recognizes that the Commission is not bound by the Public Staff's agreement with Frontier with respect to any change in margin rates and may find in its discretion that Frontier should be directed to reduce its rates to reflect the changes in the Tax Act. The Public Staff stated that, notwithstanding the foregoing, the Public Staff does request that Frontier be subject to any reporting requirements adopted in this docket.

DEC/DEP SUPPLEMENTAL COMMENTS

DEC/DEP requested that the Commission accept its Supplemental Comments that take into consideration the Commission's February 23, 2018 DEP rate case Order and the reply comments filed by other parties in the docket. DEC/DEP stated that their Supplemental Comments offer more specific proposals on how DEC and DEP could implement the impacts of the Tax Act to benefit customers.

DEC/DEP stated that after now having had the opportunity to review the DEP rate case Order, as well as the reply comments filed by the other parties in this docket seeking more detailed information, the Companies proposed to accomplish this intention through specific solutions that will lower customer bills in the near-term, help mitigate volatility due to future customer rate increases, and protect the Companies' pre-Tax Act credit quality for the benefit of customers. DEC/DEP stated that DEC proposes to incorporate these benefits into its pending base rate case proceeding in Docket No. E-7, Sub 1146, and DEP proposes to address the adjustments either through its next base rate case proceeding or through a decrement rider established by the Commission in this proceeding.

DEC proposed several adjustments to reduce the amounts of its requested rate increase in its pending general rate case in Docket No. E-7, Sub 1146 to reflect the changes in the Tax Act. DEC noted that in its proposed rate request filed in Docket No. E-7, Sub 1146, DEC's proposed rate increase of $647 million reflects a federal corporate income tax rate of 35%. DEC stated that the underlying test period income tax expense and all pro forma adjustments related to income tax expense reflect a federal corporate income tax rate of 35%. DEC maintained that, in addition, the proposed rate increase reflects accumulated deferred tax amounts in rate base without adjusting for the change in tax rate. DEC stated that to address the federal corporate income tax rate change, the Company proposes that customer rates authorized by the Commission should:

(1) Incorporate a $216 million reduction in revenue requirements to reflect federal corporate income taxes at a 21% rate, rather than a 35% rate. DEC noted that the $216 million is the $241 million on Line 8 of Boswell Supplemental Exhibit 1, Schedule 1, Page 1, Revised, in Docket No. E-7, Sub 1146, minus $25 million to reflect the tax rate impact on the additional adjustments that DEC agreed to in rebuttal testimony and in the partial settlement filed in that docket. DEC stated that the Public Staff has already incorporated the tax rate change impact into its partial settlement and additional adjustments;

(2) Incorporate reductions totaling $96 million in proposed revenue requirements to return EDIT to customers under the following proposals:

(a) <u>Protected Federal EDIT related to Property, Plant and Equipment</u>

DEC proposed to return EDIT for which there are IRS requirements (protected deferred income taxes) based on the method required by IRS rules. DEC stated that specific IRS rules apply to deferred income taxes related to property, plant and equipment for which there are differences in book versus tax depreciation with regard to method of depreciation and depreciable life. DEC proposes to reduce its revenue requirements by $34 million to return approximately 3.1% of the balance of EDIT to customers annually over the remaining life of the property, plant and equipment to which the deferred taxes are related. DEC stated that this proposal complies with IRS tax normalization rules. DEC maintained that the revenue requirement reduction of $34 million is a net amount that incorporates both the decrease in operating expenses related to the tax rate change and the increase in rate base associated with the lesser amount of accumulated deferred income taxes that are deducted from rate base.

(b) <u>Unprotected Federal EDIT related to Property, Plant and Equipment</u>

DEC noted that for EDIT related to property, plant and equipment, but not subject to IRS tax normalization rules, DEC proposes to return that EDIT over 20 years. DEC proposes to reduce its revenue requirements by $37 million per year. DEC stated that this proposal serves to refund the excess tax amounts over a period that considers the long lives of the property, plant and equipment to which these tax amounts relate. DEC stated that this period aligns with the timeframe that the benefits (i.e., deferred tax liability offset to rate base) would be received by customers absent the change in tax rate. DEC maintained that the revenue requirement reduction of $37 million is a net amount that incorporates both the decrease in operating expenses related to the tax rate change and the increase in rate base associated with the lesser amount of accumulated deferred income taxes that are deducted from rate base.

(c) Unprotected Federal EDIT – Other

DEC stated that it proposes to return over five years through a rider EDIT related to timing differences between book income and taxable income that are: (1) not subject to IRS normalization rules; and (2) are not related to property, plant and equipment. DEC noted that the rider would incorporate a $40 million reduction in operating expense per year over the five year period. DEC maintained that the reduced accumulated deferred income taxes that are deducted from rate base equate to approximately $15 million and will be reflected in base rate adjustments rather than the rider. DEC stated that these represent a partial offset to the impact to rate base; and

(3) Incorporate an increase in proposed revenue requirements of $200 million to collect certain expenses on an accelerated basis. DEC stated that in doing so, the Company intends to minimize customer rate volatility, and minimize financing costs over the long term.

DEC stated that the reduction in the federal corporate income tax rate has a dual effect on customer rates – a decrease in operating expenses and an increase in rate base. DEC noted that this accelerated return of EDIT to customers creates a rate reduction that is followed by a rate increase. DEC stated that its proposal would smooth out this rate volatility. DEC maintained that this approach does not ask customers to pay costs that are not appropriate costs of providing electric service, but rather adjusts the timing of payment of the costs in a manner that minimizes steep changes in rates. DEC stated that the amount of accelerated expense recovery proposed by the Company, although discretionary, is designed to achieve this objective.

DEC asserted that one option would be for the Commission to allow DEC to record $200 million per year for accelerated depreciation for AMR meters and/or certain coal-fired plants. DEC stated that under this option, customers would benefit in the future through lower depreciation expense following the next depreciation study.

DEC stated that another option is for the Commission to use this reduction in the federal corporate income tax rate to offset the ongoing necessary investments in coal ash basin closure expense to comply with the EPA's Coal Combustion Residuals Rule and the North Carolina Coal Ash Management Act. DEC maintained that if the Commission were to deny DEC's request for ongoing recovery of annual coal ash basin closure expense (the ongoing compliance costs) in DEC's pending rate case, DEC would propose to record $200 million amortization expense per year to the same regulatory asset to which the ongoing compliance costs are recorded, thereby reducing customers' future obligation.

DEC noted that the net effect of the proposed adjustments to the revenue increase requested in Docket No. E-7, Sub 1146 is a reduction of $72 million in base rates, plus an annual revenue reduction of $40 million through a five-year rider, for a total benefit to customers of $112 million per year for five years. DEC/DEP stated that they have proposed that the Commission could mitigate these impacts by offsetting items such as storm response costs, ongoing coal ash basin closure compliance costs or other environmental compliance costs, or accelerating the depreciation of certain assets such as the existing AMR meters or coal plants. DEC/DEP noted that the accelerated depreciation would be accomplished by creating a North Carolina retail regulatory liability and that liability would then be used to reduce depreciation expense on the specific asset or group of assets the next time depreciation rates are updated, similar to the way that the DEP Harris Nuclear Plant accelerated depreciation was used to reduce depreciation expense in Docket No. E-2, Sub 1023.

DEC stated that the amounts set forth in its proposal are based on DEC's rebuttal testimony and Agreement and Stipulation of Partial Settlement with the Public Staff in Docket No. E-7, Sub 1146. DEC/DEP maintained that any further changes to proposed revenue requirements resulting from the Commission rulings in Docket No. E-7, Sub 1146, such as the return on equity authorized by the Commission, may affect these amounts. DEC/DEP noted that, in addition, all EDIT amounts are by necessity estimated, pending completion of the Company's federal income tax return in 2019 for tax year 2018.

DEC stated that it is proposing an approach to reduce customer bills in the near term and help to offset rate increases in the future. DEC maintained that, importantly, customers benefit if the Company can access low-cost capital – this allows the Company to keep bills as low as possible while making the investments necessary to build the energy future customers expect. DEC argued that this is possible because the Company maintains strong credit quality and any treatment of tax reform should support maintaining the Company's pre-Tax Act credit quality. DEC stated that its approach will balance the importance of delivering savings to customers and upholding the Company's financial strength, which ultimately benefits customers.

DEC/DEP noted that the Commission's DEP rate case Order required DEP to recalculate a revenue requirement and file it for approval with the Commission. DEC/DEP stated that DEP is working with the Public Staff to complete these calculations[13]. DEC/DEP maintained that DEP proposes to make a supplemental filing in the future which proposes more specific recommendations after the Commission has approved a compliance revenue requirement in Docket No. E-2, Sub 1142.

PUBLIC STAFF'S MARCH 2, 2018 LETTER

The Public Staff stated that DEC has failed to provide its proposal as outlined in its March 1, 2018 Supplemental Comments in the multiple supplemental filings filed in its pending general rate case in Docket No. E-7, Sub 1146. The Public Staff noted that, instead, DEC filed its proposal in this docket, which in all likelihood will be resolved after the Commission's Order in DEC's pending rate case, thus delaying the flow back of the benefits of the Tax Act.

[13] DEP filed the calculations on March 2, 2018, and the Commission issued its Order approving the compliance filing and change in rates on March 8, 2018.

The Public Staff maintained that it believes the Supplemental Comments should not have been filed in this docket and the issues raised in the Supplemental Comments are more appropriately handled in DEC's pending general rate case. The Public Staff commented that its proposals for implementing the impacts of the Tax Act in DEC's general rate case are set forth in the direct and supplemental testimonies of witness Michelle Boswell and, thus, there is sufficient evidence in the rate case docket for resolving this issue. The Public Staff further stated that as a general rulemaking docket, the appropriate matters to be considered in this docket are the general manner in which the Commission will direct the utilities subject to this docket to flow back both the immediate reduction in the income tax expense and the EDIT resulting from the Tax Act. The Public Staff noted that DEC's Supplemental Comments proposed specific accounting rate base adjustments to offset the impact of the reduced tax rate, which are inappropriate for a general rulemaking docket and only can be resolved in the pending general rate case. The Public Staff asserted that ratepayers should receive the benefit of the tax reductions from the Tax Act as soon as possible and that the Commission should implement the impacts of the Tax Act in DEC's pending general rate case.

DEP'S SUPPLEMENTAL COMMENTS

DEP stated that its supplemental comments take into consideration the Commission's February 23, 2018 Order in DEP's general rate case proceeding, the reply comments filed by other parties in this docket, and the Commission's March 8, 2018 Order Approving Compliance Filing and Change in Rates in DEP's general rate case proceeding.

DEP stated that its supplemental comments update DEP's estimated annual cost of service effect of the changes to the levels of income tax expenses expected due to the Tax Act provided in DEP's initial comments in this docket. DEP maintained that this update is based on the revenue requirement approved by the Commission in its March 8, 2018 Order Approving Compliance Filing and Change in Rates. DEP stated that the supplemental comments also outline DEP's more specific proposal as promised in DEC/DEP's March 1, 2018 supplemental comments filed in this docket.

DEP asserted that it continues to propose that the benefits of the Tax Act be addressed in the Company's next general rate case proceeding or through a decrement rider established by the Commission in this proceeding.

DEP provided an updated estimated effect of the Tax Act on DEP's cost of service approved in its recent rate case. DEP noted that the rates based on this cost of service study will become effective for service rendered on or after March 16, 2018. DEP further noted that the resulting reduction in annual revenue requirement is $104 million which was also the estimate provided in DEP's initial comments in this docket based upon its 2013 rate case.

DEP stated that this updated $104 million reduction is comprised of a $111 million decrease in base rates and a $7 million increase in the NC EDIT rider both related to the lower federal corporate income tax rate. DEP stated that Updated Exhibit 2b shows how the revenue requirement reduction translates into a decrement rate of $0.00278 per kWh. DEP stated that it plans to update the decrement to the new rate shown in Updated Exhibit 2b and to apply it to North Carolina retail services provided beginning March 16, 2018. DEP further stated that it would propose to continue this deferral until new rates can be established in its next general rate case proceeding. DEP maintained that should the Commission decide to order a rate change in this docket which incorporates this impact, DEP would stop the deferral when the new rates became effective.

DEP asserted that while it continues to propose that the benefits of the Tax Act be addressed in the Company's next general rate case proceeding, should the Commission decide to reduce customers' rates in this docket instead, DEP submits the following proposal to benefit customers in the short-term and long-term.

1. Incorporate a $104 million reduction in revenue requirements to reflect federal corporate income taxes at a 21% rate, rather than a 35% rate.

2. Incorporate reductions totaling approximately $45 million in proposed revenue requirements to return excess accumulated deferred income taxes to customers under the following proposals:

   Protected Federal EDIT related to Property, Plant and Equipment

   Return EDIT for which there are IRS requirements (protected deferred income taxes) based on the method required by IRS rules. Specific IRS rules apply to deferred income taxes related to property, plant and equipment for which there are differences in book versus tax depreciation. These differences are related to the method of depreciation and depreciable life. DEP would propose to reduce its revenue requirements by approximately $37 million to return approximately 4.29% of the balance of excess deferred taxes to customers annually over the remaining life of the property, plant and equipment to which the deferred taxes are related. This proposal complies with IRS tax normalization rules. The revenue requirement reduction of $37 million is a net amount that incorporates both the decrease in operating expenses related to the tax rate change and the increase in rate base associated with the lesser amount of accumulated deferred income taxes that are deducted from rate base,

   Unprotected Federal EDIT related to Property, Plant and Equipment

   Return excess deferred income taxes related to property, plant and equipment, but not subject to IRS tax normalization rules over 20 years. This proposal would reduce the Company's revenue requirement by approximately

$13 million per year. This proposal serves to refund the excess tax amounts over a period that considers the long lives of the property, plant and equipment to which these tax amounts relate. This period aligns with the timeframe that the benefits (i.e., deferred tax liability offset to rate base) would be received by customers absent the change in tax rate. The revenue requirement reduction of $13 million is a net amount that incorporates both the decrease in operating expenses related to the tax rate change and the increase in rate base associated with the lesser amount of accumulated deferred income taxes that are deducted from rate base. DEP's proposal helps to smooth out volatility in customer rates over the long term for the benefit of customers.

Unprotected Federal EDIT – Other

Using a rider, collect over five years the excess deferred taxes related to timing differences between book income and taxable income that are: (1) not subject to IRS normalization rules; and (2) are not related to property, plant, and equipment. For DEP, the deferred income taxes and resulting excess deferred income taxes in this category are a net asset, instead of a net liability. As a result, the balance actually needs to be collected from customers as opposed to returned. The rider would incorporate an approximately $7 million increase in operating expense per year over the five-year period. The increased accumulated deferred income taxes that are deducted from rate base equate to an approximate $2 million reduction in revenue requirements and would be reflected in a base rate adjustment rather than the rider.

DEP noted that the EDIT balances in each category will continue to fluctuate and will not be final until the Company files its 2018 tax returns in late 2019. DEP stated that, therefore, adjustments and true-ups may need to be made in future rate cases.

3. Incorporate an increase in proposed revenue requirements of $100 million to collect certain expenses on an accelerated basis. In doing so, the Company intends to minimize customer rate volatility, and minimize financing costs over the long term.

DEP asserted that the reduction in the federal corporate income tax rate has a dual effect on customer rates – a decrease in operating expense and an increase in rate base. DEP stated that this accelerated return of excess deferred income taxes to customers creates a rate reduction that is followed by a rate increase. DEP maintained that its proposal would smooth out this rate volatility. DEP asserted that this approach does not ask customers to pay costs that are not appropriate costs of providing electric service, but rather adjusts the timing of payment of the costs in a manner that minimizes significant step changes in rates. DEP stated that the amount of accelerated expense recovery proposed by the Company is designed to achieve this objective.

DEP stated that the net effect of the proposed adjustments is a reduction of $56 million in base rates, netted with an annual revenue increase of $7 million through a five-year rider. DEP noted that both DEC and DEP have proposed that the Commission could mitigate these impacts by offsetting items such as storm response costs, ongoing coal ash basin closure compliance costs or other environmental compliance costs, or accelerating the depreciation of certain assets such as the existing AMR meters or coal plants. DEP noted that the accelerated depreciation would be accomplished by creating a North Carolina retail regulatory liability. DEP stated that liability would then be used to reduce depreciation expense on the specific asset or group of assets the next time depreciation rates are updated, similar to the way that the DEP Harris Nuclear Plant accelerated depreciation was used to reduce depreciation expense in Docket No. E-2, Sub 1023.

DEP stated that one option is to use this reduction in the federal corporate income tax rate to offset the ongoing necessary investments in coal ash basin closure expense to comply with the EPA's Coal Combustion Residuals Rule and the North Carolina Coal Ash Management Act. DEP maintained that it would propose to record $100 million amortization expense per year to the same regulatory asset to which the ongoing compliance costs are recorded, thereby reducing customers' future obligation.

DEP noted that another option would be to allow DEP to record $100 million per year for accelerated depreciation for AMR meters and/or certain coal-fired plants. DEP stated that under this option, customers would benefit in the future through lower depreciation expense following the next depreciation study.

DEP noted that this proposed approach would reduce customer bills in the near term and help to offset rate increases in the future. DEP asserted that customers benefit if the Company can maintain its ability to access low-cost capital. DEP stated that this enables the Company to maintain its strong credit quality and any treatment of tax reform should support maintaining the Company's pre-Tax Act credit quality. DEP maintained that its approach will balance the importance of delivering savings to customers and upholding the Company's financial strength, which ultimately benefits customers.

PUBLIC STAFF'S APRIL 3, 2018 LETTER

The Public Staff asserted that the Commission's initial Order in this docket provided utilities and interested parties the opportunity to file initial comments and reply comments. The Public Staff noted that DEP has twice filed supplemental comments in this docket after the Commission's deadline for filing comments has passed. The Public Staff maintained that should the Commission choose to consider DEP's late-filed comments, the Public Staff requests the Commission to reopen the docket in order to allow all parties to file additional comments.

The Public Staff asserted that ratepayers should receive the benefit of the tax reductions from the Tax Act as soon as possible. The Public Staff noted that as requested in the Public Staff's reply comments, the Public Staff requests the Commission to:

(1) direct DEP to reduce its rates to reflect any and all cost savings resulting from the reduction in the federal income tax expense component of the cost of providing utility service as soon as practicable; (2) direct DEP to flow back the protected EDIT as soon as practicable in accordance with federal tax normalization rules, and (3) address the unprotected EDIT in the next general rate case filed by DEP.

The Public Staff commented that DEP's supplemental comments recommend that all of the impacts of the Tax Act be addressed in its next general rate case, but DEP provides an alternative proposal should the Commission decide to take action in this docket.

The Public Staff asserted that the issue of the flow back of the unprotected EDIT is more appropriately handled in a general rate case and not in a general rulemaking proceeding. The Public Staff stated that it is also opposed to DEP's proposal to create a false category of unprotected EDIT to delay the flowback of the benefits of the Tax Act to ratepayers over a period of 20 years. The Public Staff maintained that it is also opposed to the proposal to "smooth out rate volatility" by slowing the flowback of benefits to ratepayers by accelerating the depreciation of some unknown assets in the amount of $100 million.

DISCUSSION AND CONCLUSIONS

After reviewing all of the comments, reply comments, and supplemental filings filed in this proceeding and the entire record of evidence, the Commission notes that there are four distinct issues the Commission must decide in this proceeding, as follows:

> **Issue No. 1** - How should the Commission address the impact of the reduction in the federal corporate income tax rate outlined in the Tax Act for North Carolina public utilities (specifically, the expense piece in base rates and the provisionally collected revenues)?
>
> **Issue No. 2** - How should the Commission address the EDIT generated due to the reduction in the federal corporate income tax rate outlined in the Tax Act for North Carolina public utilities?
>
> **Issue No. 3** - How should the Commission proceed in recognition of the fact that CIAC for water and wastewater companies is now subject to federal income taxes based on the Tax Act?
>
> **Issue No. 4** - How should the Commission address the change in the federal corporate income tax rate in the various riders in effect?
>
> The Commission will now address and resolve each issue separately below.

Issue No. 1 – How should the Commission address the impact of the reduction in the federal corporate income tax rate outlined in the Tax Act for North Carolina public utilities (specifically, the expense piece in base rates and the provisionally collected revenues)?

After reviewing all of the comments, reply comments, and supplemental filings filed and the entire record of evidence, the Commission notes that all of the parties are in agreement that, based on the Nantahala case, the Commission has the authority to adjust base rates in the context of this rulemaking proceeding to reflect the decrease in the federal corporate income tax rate from 35% to 21%. However, the parties disagree on how and when the Commission should address the reduction in the federal corporate income tax rate for North Carolina public utilities.

The following parties recommended that the Commission adjust base rates for the applicable North Carolina public utilities as soon as possible to reflect the reduced federal corporate income tax rate: the Attorney General, CIGFUR, CUCA, the Low-Income Advocates (adjust other rates or use money for other purposes), Nucor (only specifically for DENC), PSNC (although not directly), and the Public Staff. These parties provided the specific recommendations outlined below.

As outlined in greater detail hereinabove, the Attorney General recommended that the Commission exercise its rulemaking authority in this proceeding to order the utilities to flow through these major federal tax reductions to consumers as soon as possible in the form of rate decreases and argued that to the extent that the cost of service effect associated with the lower corporate income tax rate is not flowed through in rates, utilities will continue to over-collect revenues, and customers will continue to be forced to pay excessive rates to build up utility accounts that essentially lend cost-free capital for utility operations.

CIGFUR maintained that the Commission should, as quickly as practicable, pass the substantial and material benefits of the Tax Act onto ratepayers through the most efficient means available, be that through this rulemaking proceeding or through pending general rate cases.

CUCA requested that the Commission, among other things, order the creation of a deferred account to capture all of the changes related to the difference between revenues billed under rates now in effect relative to the attendant cost of service based on the decrease in the federal corporate income tax component from 35% to 21% and an immediate reduction of rates paid by consumers to account for the change in the federal corporate income tax rate from 35% to 21%.

The Low-Income Advocates asserted that excess revenues due to the reduction in the public utilities' cost of service should not accrue to the Companies' shareholders. The Low-Income Advocates also stated that although the Commission has the authority to reduce rates to account for the impact of the tax cut on the public utilities' cost of service, the Commission should not simply order utilities to reduce their rates to account for the entire impact of the tax cut, or to flow all of the over-collections due to the tax cut to their customers in the form of rebates or decrement riders. The Low-Income Advocates maintained that the utilities should be required to invest some portion of the tax savings for the residential class in measures that reduce customer bills such as energy efficient programs for low-income customers. The Low-Income Advocates also argued that the Commission should examine whether it is appropriate to require greater reductions in fixed, monthly charges than in the volumetric rate.

Nucor noted that DENC indicated that it will comprehensively address all impacts from the Tax Act as part of its updated cost of service filed in the Company's next general rate case. Nucor asserted that DENC's proposed approach is inadequate and objectionable. Nucor argued that DENC makes no commitment as to when it will file its next general rate case application[14]. Nucor asserted that the inherent delay in flowing through the federal tax reductions to DENC's customers via a speculative and lengthy general rate case proceeding is unwarranted and would be unfair to DENC's customers. Nucor maintained that the Commission has the authority to address the tax reduction resulting from the Tax Act outside of a general rate case and should do so with respect to DENC. Nucor asserted that the Commission should require that DENC pass through the benefits of the federal tax changes to DENC's ratepayers in a timely manner.

Although PSNC did not make a clear statement that public utility base rates should be adjusted now to reflect the decrease in the federal corporate income tax rate, the Company did propose to adjust its rates by allocating the annual revenue requirement impact of the Tax Act changes to the various rate schedules based on the volumes determined in PSNC's most recent general rate case, Docket No. G-5, Sub 565. PSNC stated that the change in rates applicable to each rate schedule would be used to determine the appropriate level of deferred revenue to record per ordering paragraph two of the January 3, 2018 Order. PSNC asserted that due to the administrative burden of implementing a refund by recalculating previously issued bills, PSNC would propose to refund provisionally collected amounts by moving the balance in the regulatory liability account to the Company's All Customers Deferred Account. PSNC noted that this is the same treatment that PSNC used to refund provisionally collected amounts in Docket No. M-100, Sub 138 (the State corporate income tax change generic proceeding).

The Public Staff stated that it believes it is permissible for the Commission to address the effects of the Tax Act through this docket. The Public Staff maintained that the Tax Act will result in a significant reduction in the federal corporate income taxes paid by most, if not all, utilities regulated by the Commission. The Public Staff further noted that this reduction will, in turn, result in a reduction in the cost of providing public utility services to North Carolina customers, which the Public Staff believes is sufficiently substantial and material to justify an exception to the doctrine against single-issue ratemaking. The Public Staff recommended that the Commission direct the subject utilities to reduce their rates to reflect any and all cost savings resulting from the reduction

[14] In its reply comments, DENC committed to filing a single-issue adjustment to its base rate cost of service on or before June 30, 2019 if the Company has not filed a general rate case as of that date.

in the federal income tax expense component of the cost of providing utility service as soon as practicable.

The Public Staff also recommended that the Commission direct the subject utilities to refund the amount collected in the deferred account established by the Commission in this proceeding that represents the difference between revenues billed under the prior federal income tax rate and the federal income tax rate resulting from the Tax Act starting January 1, 2018.

The Public Staff stated that arguments raised by the subject utilities related to cost of capital and cash flow should not be addressed in this docket. The Public Staff argued that absent compelling evidence of financial harm to the utilities, the ratepayers should receive the benefit of the tax reductions from the Tax Act as soon as possible. The Public Staff asserted that cost of capital is appropriately addressed in a general rate case. The Public Staff maintained that if a subject utility believes its cost of capital has changed and earnings are insufficient to achieve the new cost of capital, it should file a general rate case to address this issue.

Finally, the Public Staff stated that to implement the recommendations outlined in its reply comments, the Public Staff requested that the Commission direct the subject utilities to file with the Commission and the Public Staff rate reductions to address the changes by March 30, 2018. The Public Staff stated that the subject utilities should also be required to file workpapers with the Commission and the Public Staff to support the rate reduction calculations. The Public Staff maintained that once rates are established, the subject utilities should continue to file quarterly reports on the status of their EDIT deferred account, and the deferral account established under this proceeding that represents the difference between revenues billed under the prior federal income tax rate and the federal income tax rate resulting from the Tax Act starting January 1, 2018.

CWSNC, DEC/DEP, DENC, and Piedmont recommended that base rates not be reduced as soon as possible to reflect the reduced federal corporate income tax rate. The Companies made the following specific recommendations as outlined below.

CWSNC noted that its current utility rates were set based upon rate base and operating expense levels, along with the federal corporate income tax rate of 35%, which were in place at the time of the Company's last rate case in 2017[15]. CWSNC stated that the impact upon utility rates cannot be analyzed by only looking at the impact due to the change in just one component of the Company's revenue requirement. CWSNC stated that if the true impact is going to be analyzed for the change in the federal corporate income tax rate, then all other components of the Company's revenue requirement calculation need to be taken into consideration because it is likely that those other components have changed since the rates were last set by the Commission.

[15] The Commission notes that CWSNC filed a 30-day notice of intent to file a general rate case application on March 23, 2018, in Docket No. W-354, Sub 360. CWSNC filed its general rate case application on April 27, 2018.

DEC/DEP asserted that implementation of the Tax Act has the potential to adversely affect the Companies' cash flows needed to fund ongoing operations and new infrastructure investments, and makes having a strong equity to debt capital structure even more important post-Tax Act reform. DEC/DEP stated that an unmitigated cash flow shortfall could force the Companies to rely excessively on third-party capital to fund DEP and DEC, to the ultimate detriment of their financial condition.

DEC/DEP noted that with respect to DEC, the Company proposes to address federal tax reform impacts in its pending rate case in Docket No. E-7, Sub 1146, for which the evidentiary hearing is currently scheduled to begin on February 27, 2018[16]. DEC/DEP noted that with respect to DEP, the Company also has a pending rate case in Docket No. E-2, Sub 1142, however the record in that case has closed, and DEP anticipates that the Commission will issue a final order in the near term[17]. DEC/DEP stated that once the Commission order in that rate case proceeding is received, DEP will be able to calculate the impacts of the Tax Act on tax expense based on a compliance cost of service with the Commission's order. DEP proposed to defer the resulting estimated impacts to a regulatory liability, until DEP's next rate case. DEC/DEP maintained that as an alternative, the Commission could approve a rider in Docket No. M-100, Sub 148 to reduce DEP customer rates including any potential offsets.

DEC/DEP noted that in DEP's rate case proceeding, DEP proposed to apply the decrement to North Carolina retail services beginning January 1, 2018, and defer the resulting amount into a regulatory liability until new rates can be established in its next general rate case, or in the alternative to reduce rates in a rider to be established by the Commission in this generic docket. DEC/DEP proposed options to help mitigate future rate increases by applying the federal income tax expense savings to offset items such as storm response costs, ongoing coal ash basin closure compliance costs or other environmental compliance costs, or accelerating the depreciation of certain assets such as the existing AMR meters or coal plants. DEC/DEP asserted that nothing in the intervenors' initial comments changes the Companies' recommendation that the Commission should implement a balanced solution to ensure that customers receive the benefits of tax reform.

DENC maintained that for purposes of the Company's base non-fuel rates and Rider EDIT, the Company intends to address the cost of service impacts and disposition of deferred amounts due to the Tax Act through the Commission's general ratemaking procedure set forth in N.C. Gen. Stat. § 62-130 and N.C. Gen. Stat. § 62-133. DENC stated that this approach ensures that the Company has sufficient time to comprehensively evaluate the direct and indirect impacts of this complex new tax legislation in determining the Company's updated cost of service. DENC asserted that the differences between rates in effect at January 1, 2018, including provisional components, and revenues that would have been billed incorporating the IRC as now

[16] The evidentiary hearing was subsequently changed to begin on March 5, 2018. The Commission issued its Order in DEC's rate case proceeding on June 22, 2018.

[17] The Commission issued its Order in DEP's rate case proceeding on February 23, 2018.

amended by the Tax Act, will be held in a deferred account. DENC argued that this approach is reasonable and fair to customers and the Company, as the Company is now collecting these amounts on a provisional basis.

DENC maintained that it recognizes the Public Staff's and other parties' objective of ensuring that provisionally-collected amounts are expeditiously recognized in the Company's utility rates. However, DENC asserted that efficiencies would be achieved by comprehensively addressing all federal income tax issues in the Company's next general rate case. DENC stated that to balance these interests, the Company commits to filing a single-issue adjustment to its base rate cost of service on or before June 30, 2019, if the Company has not filed a general rate case as of that date.

DENC opined that provisional recovery and deferral accounting combined with its commitment to file a single-issue proceeding to address these impacts by June 30, 2019, if it has not yet filed a base rate case, appropriately balances the desire to expeditiously pass the benefits of the Tax Act to ratepayers with the Company's approach to efficiently adjusting its rates and charges to comprehensively address all base rate cost of service impacts resulting from the Tax Act. DENC maintained that if the Commission determines that it is appropriate to reduce utility rates through a rulemaking procedure on a more accelerated schedule, the Company recommends that the Commission only order DENC to adjust the income tax expense portion of operating income in the Company's cost of service and leave the other elements of the tax changes enacted in the Tax Act for review in the Company's next general rate case. DENC stated that, in any case, it stands ready to work with the Public Staff and to take whatever action the Commission directs to provide the benefits of the Tax Act to the Company's customers.

Piedmont stated that it is proposing to reduce customer bills through the flow-through of tax rate reductions under its Integrity Management Rider mechanism while deferring tax rate reductions on its base rates until the next general rate case proceeding where such deferral can be amortized and used to offset any requested base rate increase in that docket.

Piedmont asserted that while some intervenors request that the Commission reduce customer rates and the utilities' revenues immediately to account for 100% of the impacts of the Tax Act, Piedmont submits that its proposals represent a more balanced approach. Piedmont maintained that customers receive an immediate benefit in the form of savings under the Tax Act through rate reductions commencing with its upcoming June 1, 2018 IMR rate adjustment, but that tax rate reductions on its base rates be deferred until its next general rate case proceeding.

The Commission, having thoroughly reviewed and considered all of the filings made in this proceeding, concludes that it is appropriate to require an immediate reduction in the base rates (for the expense piece) of affected utilities to reflect the 21% federal corporate income tax rate mandated by the Tax Act, effective January 1, 2018. The Commission finds that the federal corporate income tax rate reduction mandated by the Tax Act is material and substantial, a fact that no party disputes, and that ratepayers should not be forced to continue paying base rates that were set to recover a 35% federal corporate income tax rate that has been reduced to 21% until the utility's next general rate case proceeding.

The Commission also agrees with all of the parties that based on the Nantahala decision from the 1986 federal Tax Act, the Commission does have the authority to require this flow-through in this rulemaking proceeding. The Commission does not find the comments made by most of the utilities recommending that flow-throughs for the expense adjustment be delayed until the next general rate case proceeding of each utility to be convincing or persuasive. The Commission concludes that the ratepayers should receive the benefit of the tax reductions from the Tax Act as a reduction to expense and therefore a base rate decrease as soon as possible. Although an immediate flow through of the expense piece will decrease the cash flow of utilities, the Commission finds that its decision herein on the EDIT generated due to the Tax Act (See Issue No. 2 below) will mitigate any adverse effects from this cash flow decrease.

As further discussed below, the Commission will address this issue in the context of Aqua's and CWSNC's pending rate case proceedings. The Commission did require DEC to flow through the 21% federal income tax rate in expenses in DEC's most recent rate case proceeding (Docket No. E-7, Sub 1146) in the Commission's June 22, 2018 Order.

Finally, the Commission notes that Cardinal filed a notice of intervention in this docket, and its intervention was granted by the Commission. However, Cardinal did not file initial and/or reply comments, and no other party specifically mentioned Cardinal in its initial or reply comments. The Commission notes that Cardinal was required to flow through the decrease in the State corporate income tax rate under HB 998 in the context of Docket No. M-100, Sub 138. Further, the Commission notes that in Cardinal's last general rate case proceeding, Docket No. G-39, Sub 38, the Commission issued an Order Decreasing Rates on July 27, 2017. Finding of Fact No. 13 of that Order stated that the federal corporate income tax rate of 35% was reasonable and appropriate for use in determining Cardinal's federal income taxes in the docket. Therefore, the Commission concludes that in the context of this docket Cardinal shall also be required to flow through the decrease in the federal corporate income tax rate in its rates.

The Commission also concludes that it is appropriate to find that the Companies shall continue to hold in a deferred regulatory liability account the difference between revenues billed under the prior federal corporate income tax rate and the federal corporate income tax rate resulting from the Tax Act starting January 1, 2018 as previously ordered in the Commission's January 3, 2018 Order and the disposition of such regulatory liability will be considered in each utility's next general rate case proceeding or in three years, whichever is sooner. DEC is included in this decision because the issue of how to handle the provisional amounts collected since January 1, 2018 based on rates reflecting the 35% federal corporate income tax rate was not addressed in DEC's recent rate case proceeding. These amounts will ultimately be returned to customers with interest reflected at the overall weighted cost of capital approved in each Company's last general rate case proceeding.

Based on the foregoing conclusions, Cardinal, DENC, DEP, Piedmont and PSNC[18] should file rate reduction proposals to reflect the change in the federal corporate income tax rate by Thursday, October 25, 2018. The rate reduction proposals should include all workpapers that support the proposed rate reduction calculations. The Public Staff is specifically requested to file comments on the proposals by no later than Wednesday, November 14, 2018. Other parties also may file comments on the proposals by no later than Wednesday, November 14, 2018.

The Commission is opening new Company-specific dockets that will be used for all filings related to the implementation of this Order, as follows:

DEC	Docket No. E-7, Sub 1184
DEP	Docket No. E-2, Sub 1188
DENC	Docket No. E-22, Sub 560
Piedmont	Docket No. G-9, Sub 731
PSNC	Docket No. G-5, Sub 595
Cardinal	Docket No. G-39, Sub 42

Further, once rates are established, the subject utilities should file quarterly reports in the appropriate newly-created, Company-specific docket, due no later than 30 days after the end of a quarter, on the status of their EDIT deferred account, and the deferral account established under this proceeding that represents the difference between revenues billed under the prior federal corporate income tax rate and the federal corporate income tax rate resulting from the Tax Act starting January 1, 2018. DEC shall also be required within the context of this Order in this proceeding to file the quarterly reports.

Public Utilities with Unique Circumstances

Aqua filed an application for a general rate case on March 7, 2018 in Docket No. W- 218, Sub 497. Aqua proposes that the Commission address the Tax Act in Aqua's

[18] On February 1, 2018, in Docket Nos. M-100, Sub 138 and G-5, Sub 565, PSNC filed an Application to Refund Overcollection. PSNC noted that in the course of preparing the Commission requested comments in this docket, PSNC determined that the previously submitted revenue requirement reduction associated with the decrease in the state corporate income tax rate from 4% to 3% was calculated incorrectly. PSNC maintained that incremental amounts currently being collected in rates due to the error in determining the revenue requirement decrease associated with the State corporate income tax rate reduction to 3% will be incorporated into the determination of provisional amounts being collected as a result of the federal corporate income tax rate reduction from 35% to 21%. On February 8, 2018, PSNC filed a letter noting that it had determined the additional amounts collected from customers that need to be refunded. On March 28, 2018, the Public Staff filed a letter stating that it has reviewed PSNC's filings and recommended that the Company file to reduce its margin rates to reflect this additional reduction in its revenue requirement. The Commission finds that PSNC's rate reduction proposal filed as requested herein should also include the required correction to rates to reflect the 3% State corporate income tax rate.

currently pending rate case docket, and the Public Staff has agreed with that recommendation. Therefore, the Commission finds it appropriate to address the impact of the Tax Act on Aqua in Docket No. W-218, Sub 497. Consequently, the Commission will not address Aqua further in this generic rulemaking proceeding.

CWSNC filed a 30-day notice of intent to file an application for a general rate case on March 23, 2018 in Docket No. W- 354, Sub 360. CWSNC filed its general rate case application on April 27, 2018.

On April 6, 2018, CWSNC filed a Procedural Request. CWSNC noted that it intends to file a general rate case application on April 23, 2018, and now proposes that the impact of the Tax Act on the Company's rates be addressed and resolved in that proceeding (Docket No. W-354, Sub 360). CWSNC maintained that it was authorized to state that the Public Staff supports the procedural request, subject to the proviso that the Company in fact files its general rate case application on April 23, 2018, or a date soon thereafter.

Based on the foregoing, the Commission finds it appropriate to address the impact of the Tax Act on CWSNC in Docket No. W-354, Sub 360. Consequently, the Commission will not address CWSNC further in this generic rulemaking proceeding.

DEC has had a recent rate case proceeding, Docket No. E-7, Sub 1146. The changes as a result of the Tax Act were addressed in that rate case proceeding by Orders dated June 22, 2018 and July 2, 2018. Therefore, the Commission will not address the expense piece for DEC further in this generic rulemaking proceeding.

Frontier noted that in the Commission's 2013 proceeding addressing the decrease in the State corporate income tax rate (Docket No. M-100, Sub 138), the Public Staff acknowledged that Frontier provides gas service pursuant to rates established in connection with the granting of its certificate, not rates established in a general rate case based on specific items of cost. Frontier also noted that, therefore, the Public Staff recommended that the Commission not adjust Frontier's rates as a result of HB 998 (the State legislation decreasing the State corporate income tax rate). Frontier maintained that the Commission agreed with the Public Staff and found it appropriate to exclude Frontier from further consideration by the Commission in that docket. Frontier stated that the Commission's ruling effectively exempted Frontier from any obligation to flow-through the State corporate income tax reductions adopted in HB 998 on the grounds that its rates were not cost-based in the first instance, therefore, it made little sense to compel the adoption of a cost-based adjustment to those rates. Frontier argued that the same logic would compel a similar result in this docket.

The Public Staff stated in its reply comments, which were subsequently clarified by the Public Staff, that Frontier has been collecting funds from its ratepayers in order to pay Frontier's federal income tax obligations. The Public Staff further stated that the Tax Act reduces the federal tax obligations of Frontier and that its ratepayers should benefit from the reduction in the federal corporate income tax resulting from the Tax Act.

Accordingly, the Public Staff originally recommended that Frontier be subject to the provisions of this docket.

The Public Staff maintained in its Clarification to Reply Comments that in Docket No. G-40, Sub 136, by Order dated August 1, 2017, the Commission approved a merger between Frontier and FR Bison Holdings, Inc., subject to certain regulatory conditions. The Public Staff noted that Regulatory Condition #10, provided that the Public Staff would not request a change in Frontier's margin rates unless certain exceptions apply. The Public Staff stated that the Regulatory Condition in its entirety reads:

> "**Rate Case Moratorium.** Neither Frontier nor the Public Staff will request a change in Frontier's margin rates until after December 31, 2021, except as set forth below. For purposes of this provision, the margin rate is defined as the tariff rate less the benchmark cost of gas and temporary increments and/or decrements imposed pursuant to G.S. 62-133.4 or Commission Rule R1-17(k). The exceptions to the moratorium imposed by this Condition are as follows: (a) Should Frontier or the Public Staff believe that Frontier should implement a pipeline safety rate adjustment mechanism pursuant to G.S. 62-133.7A, either party shall have the right to apply to or petition the Commission to initiate a general rate case proceeding; and (b) effective July 1, 2019, should Frontier's rolling twelve-month earned return on average rate base, based on a reasonable pro forma capital structure and reasonable regulatory adjustments, exceed 12.00% for two quarters in any consecutive four-quarter period, the Public Staff shall have the right, after notice to and consultation with Frontier's management, to petition the Commission to initiate a general rate case proceeding."

The Public Staff asserted that, consistent with the Regulatory Condition, the Public Staff seeks to clarify that in its comments submitted on February 20, 2018, the Public Staff is not requesting the Commission to change Frontier's margin rates. The Public Staff stated that it recognizes that the Commission is not bound by the Public Staff's agreement with Frontier with respect to any change in margin rates and may find in its discretion that Frontier should be directed to reduce its rates to reflect the changes in the Tax Act. The Public Staff stated that, notwithstanding the foregoing, the Public Staff does request that Frontier be subject to any reporting requirements adopted in this docket.

The Commission notes that the Public Staff did not provide any reasoning behind its differing positions in the State generic tax docket (Docket No. M-100, Sub 138) and this federal generic tax docket on how Frontier should be treated by the Commission. The Public Staff recommended, and the Commission agreed with and approved the recommendation, that the decrease in the State corporate income tax rate as a result of HB 998 should not be flowed through for Frontier because Frontier's rates were established in connection with the granting of its certificate and not in a general rate case proceeding based on specific items of cost. Further, in this proceeding, ultimately, based on Regulatory Condition #10 of the 2017 merger with FR Bison Holdings, Inc., the Public Staff recommended that the Commission not change Frontier's margin rates.

Based upon the following, the Commission concludes that it is appropriate to exclude Frontier from further consideration by the Commission in this proceeding. The Commission concludes that Frontier's rates were established in a very different manner than a rate case proceeding wherein specific items of cost are included in setting the rate to be charged by the utility. Therefore, the Commission does not believe Frontier's rates can or should be adjusted to reflect the decrease in the federal corporate income tax rate. The Commission notes that this conclusion is consistent with the Commission's conclusions in the State corporate income tax rate rulemaking proceeding, Docket No. M-100, Sub 138. The Commission urges the Public Staff to enforce Regulatory Condition #10 of the 2017 merger if Frontier's earned return exceeds 12.00% for two quarters in any consecutive four-quarter period.

Toccoa filed its comments noting that it is a municipally-owned natural gas system that is not subject to income or other tax obligations. Toccoa also noted that the Commission found it appropriate in Docket No. M-100, Sub 138 addressing House Bill 998 (implementing the State corporate income tax rate reduction) to exclude Toccoa. The Public Staff filed comments agreeing with Toccoa's comments in this regard.

Based upon the following, the Commission concludes that it is appropriate to exclude Toccoa from further consideration by the Commission in this proceeding because Toccoa is not subject to income or other tax obligations and, therefore, no tax allowances were included in any determination of Toccoa's revenue requirements when the Commission established its rates.

Issue No. 2 – How should the Commission address the EDIT generated due to the reduction in the federal corporate income tax rate outlined in the Tax Act for North Carolina public utilities?

After reviewing all of the comments, reply comments, and supplemental filings filed and the entire record of evidence, the Commission notes that all of the parties that provided specific comments on the issue of EDIT agreed that there is protected and unprotected EDIT based on the Tax Act. Protected EDIT requires flow-back based on IRS normalization rules while unprotected EDIT is not constrained by IRS normalization rules.

The following parties recommend that the Commission require some or all of the EDIT to be flowed back or returned to customers as soon as possible: Attorney General; CIGFUR (using a two or three year decrement rider); Low-Income Advocates (with at least 25% applied toward low-income efficiency programs); and the Public Staff (protected EDIT flowed back as soon as possible with normalization rules; unprotected EDIT flowed back in each utility's next general rate case unless there is a currently-pending rate case). These parties provided the specific recommendations outlined below.

The Attorney General noted that DEC/DEP do not identify how much the Companies hold in accounts for ADIT, do not report the EDIT amount that they have accrued based on the reduction in federal income taxes, and do not propose to return any of the EDIT amounts to ratepayers until they file future general rate cases. The Attorney General maintained that instead, DEC/DEP propose to hold onto those excess funds, apparently for several years, as cost-free capital.

The Attorney General observed that other utilities also suggest limiting or deferring the benefit of income tax reform rather than flowing it through to ratepayers promptly. The Attorney General noted that DENC proposed to hold onto the excess amount that has accrued in deferred income taxes for consideration in its next general rate case. The Attorney General noted that CWSNC made a similar proposal, and that Piedmont proposed to defer the benefits of tax reform for consideration in a future general rate case. The Attorney General specified that, like DEC/DEP, Piedmont did not reveal the current balances of ADIT and EDIT deferred tax accounts.

The Attorney General argued that allowing utilities to hold onto the excess is particularly unreasonable if the utility has a pending general rate case or if rates were recently established. The Attorney General stated that DEC has acknowledged that it is appropriate to address the effect of tax reform in the pending DEC general rate case, but suggests that it is not appropriate to address tax reform in the pending DEP case because the evidentiary hearing has already been held in that case. The Attorney General asserted, however, that the fact that the evidentiary hearing has already occurred in the DEP case should not postpone action until another rate case is filed years from now.

The Attorney General maintained that as a result of the scant information provided by the utilities in their initial comments, the public and the Commission do not know how much EDIT have been accrued. The Attorney General argued that, however, this information is known to the utilities because publicly-traded utilities must report this data in their annual reports to shareholders, and the information should be reported and considered in this docket as well. The Attorney General maintained that the amount of EDIT may be very large. The Attorney General further noted that according to an estimate provided in comments filed by CUCA, based on FERC Form 1 filings, Duke Carolinas has over $1.6 billion of excess accrued deferred income taxes allocated to North Carolina retail customers, and Duke Progress has approximately $875 million.

The Attorney General stated that, similarly, if the utilities' proposals are accepted and they are allowed to retain the funds they are currently holding in EDIT accounts, i.e., excess deferred income taxes that were collected in earlier years when the federal income tax rate was higher than it is following the Tax Act, then the utilities would continue to maintain these excess funds as cost-free capital. The Attorney General argued that not returning dollars to consumers who struggle to pay their bills, or to consumers who would use their money for different purposes if given the opportunity, results in an undue burden on ratepayers and communities in North Carolina.

The Attorney General requested that the Commission take prompt action to require the utilities to provide a full accounting of the past and present extent of over-collection of taxes and then to order immediate utility rate reductions that return excess deferred income taxes that have accrued as soon as allowed under federal tax law.

CIGFUR maintained that EDIT should be refunded to ratepayers through a decrement rider as soon as practicable. CIGFUR asserted that due to the Tax Act, DENC's, DEP's, and DEC's future tax liabilities will not be as high as anticipated when rates were originally designed. CIGFUR stated that the amount by which DENC's, DEP's, and DEC's current ADIT balances exceeds their future income tax liability as a result of the Tax Act are the EDIT at issue. CIGFUR noted that further, until the Commission adjusts utility rates to reflect the new lower tax rate, the utilities will continue to collect excess income tax from ratepayers at the 35% tax rate, which the Commission approved for DENC, DEP, and DEC in Docket Nos. E-22, Sub 532, E-2, Sub 1023, and E-7, Sub 1026, respectively.

CIGFUR asserted that these EDIT should be promptly flowed back to ratepayers; however, DENC, DEP, and DEC argue against returning EDIT to ratepayers in a timely manner and instead propose to defer their EDIT as regulatory liabilities until their next general rate cases. CIGFUR stated that it opposes long-term deferral of EDIT and proposes that, concurrent with the immediate rate reductions discussed in its reply comments, the Commission establish a decrement rider for each utility to refund EDIT to ratepayers over a two or three year period.

The Low-Income Advocates recommended that the Commission order a portion of the previously over-collected taxes, or EDIT, to flow back to ratepayers in the form of investments in low-income efficiency programs. The Low-Income Advocates asserted that the accumulated deferred income taxes have already been collected from customers, and given the change in the federal corporate income tax rate enacted by Congress, have been over-collected. The Low-Income Advocates stated that this excess is now a regulatory liability that should be returned to customers. The Low-Income Advocates noted that consistent with the requirements for the normalization method of accounting for deferred taxes for regulated public utilities, the public utilities in this docket should return the difference between the deferred income taxes accounted for under the higher federal corporate income tax rate under prior law and the lower rate that was recently established in the Tax Act. The Low-Income Advocates asserted that a portion of the EDIT should be returned to ratepayers in the form of direct investments in low-income energy efficiency. The Low-Income Advocates noted that based on the initial comments filed it is not clear what the total change in the EDIT will be over the next several years, or how fast the utilities can return the over-collected deferred income taxes to ratepayers under normalization rules. The Low-Income Advocates stated that at a minimum, it would be reasonable for the public utilities to invest at least 25% of EDIT for low-income efficiency.

The Public Staff maintained that, as in Docket Nos. M-100, Sub 113 and M-100, Sub 138, the Commission should require that the EDIT resulting from the decrease in the federal corporate income tax rate established in the Tax Act be flowed back to the ratepayers. The Public Staff asserted that the treatment of EDIT in those dockets should provide a framework for the treatment of EDIT created by the Tax Act.

The Public Staff stated that the Tax Act provides that certain EDIT should be flowed back to the ratepayers subject to certain limitations. The Public Staff specified that the EDIT subject to these limitations is generally referred to as the “protected EDIT.” The Public Staff noted that the EDIT that is not subject to limitations in the timing of flow back is generally referred to as the “unprotected EDIT.”

The Public Staff asserted that the protected EDIT should be flowed back as soon as practicable in accordance with federal tax normalization rules. The Public Staff stated that compliance with federal tax normalization rules slows the return of the protected EDIT to ratepayers as compared to what regulators might otherwise desire. The Public Staff stated that it does not recommend delaying the return of the protected EDIT or in any way further slowing the return of the protected EDIT to ratepayers, other than the delay required under federal law.

The Public Staff further recommended that the flow back of the unprotected EDIT should be addressed in the next general rate case filed by each of the subject utilities, except for those with currently pending general rate cases.

Finally, the Public Staff recommended that the Commission direct the subject utilities to file with the Commission and the Public Staff rate reductions to address the changes by March 30, 2018. The Public Staff maintained that once rates are established, the subject utilities should continue to file quarterly reports on the status of their EDIT deferred account, and the deferral account established under this proceeding that represents the difference between revenues billed under the prior federal income tax rate and the federal income tax rate resulting from the Tax Act starting January 1, 2018.

The following parties recommend that the Commission address EDIT in each utility’s next general rate case: Aqua (and a rate case was filed on March 7, 2018); CUCA (for current DEP and DEC rate cases; otherwise create regulatory liability to address change in EDIT); CWSNC, DENC; DEP (since the current rate case docket is now closed); Piedmont; and PSNC. These parties provided the specific recommendations outlined below.

Aqua proposed to account for the federal EDIT by reducing the deferred taxes ratably over the regulatory life of the underlying property. Aqua stated that it intends to defer the process of amortizing these EDIT until they are addressed in the upcoming rate case filing (that was subsequently filed on March 7, 2018, in Docket No. W-218, Sub 497).

CUCA noted that it recognizes that the Commission has previously addressed the issue of EDIT in Docket No. M-100, Sub 138. CUCA stated that the Commission, in that docket, required the establishment of a regulatory liability account for the EDIT that would be addressed in the next rate case for each of the Companies. CUCA stated that it has estimated the issue of EDIT to be approximately $875 million for DEP and over $1.6 billion for DEC. CUCA stated that it estimated these amounts based upon values found in the FERC Form 1 reports of DEP and DEC allocated to the North Carolina retail consumer and from Form E-1, item 45A of the ongoing DEP and DEC rate cases. CUCA stated that given the fact that DEC and DEP have pending rate cases before the Commission, CUCA requested that the Commission address the issue of EDIT in these ongoing cases.

CWSNC stated that with respect to EDIT, although exact figures will not be available to the Company for at least 60 days, CWSNC has been collaborating with external tax professionals to assess the impact of the excess ADIT due to the change in the federal corporate income tax rate. CWSNC noted that its proposed accounting treatment of the issue is described in Exhibit 2 attached to its initial comments. CWSNC stated that the protected and non-protected EDIT computed will remain in a regulatory liability account and will not be amortized until the Company is further instructed by the Commission during the next general rate case proceeding[19].

DEC made specific proposals for the treatment of EDIT in its current rate case proceeding. DEP proposed that EDIT be placed in a regulatory liability account and addressed in its next general rate case proceeding. Both DEC and DEP noted that, in addition, all EDIT amounts are by necessity estimated, pending completion of the Companies' federal corporate income tax returns in 2019 for tax year 2018.

DENC maintained that it reduced the balance of ADIT in its financial records to reflect an estimated amount of EDIT for the Virginia Electric and Power Company system effective December 31, 2017. DENC stated that, however, such estimate and the portion allocable to the North Carolina retail operations will be further refined throughout the coming year as a more detailed analysis is completed and needed guidance from the IRS is forthcoming.

DENC asserted that in accordance with Generally Accepted Accounting Principles (GAAP), the Company recorded in its financial records a reduction in the balance of EDIT effective December 31, 2017, to reflect an estimate of the impact of the Tax Act. DENC stated that the reductions in ADIT associated with the Company's regulated operations and recognized for ratemaking purposes were reclassified to regulatory liability accounts. DENC stated that the predominant portion of EDIT is subject to the IRC's normalization rules. DENC maintained that certain tax technical issues have yet to be resolved and additional guidance from the IRS is expected. DENC argued that addressing the ratemaking treatment of EDIT in the Company's next general rate case rather than through rulemaking allows for additional time to resolve these issues to ensure that the Company's rates and charges are maintained in accordance with the IRC's normalization rules.

[19] The Commission notes that CWSNC filed a 30-day notice of intent to file a general rate case application on March 23, 2018, in Docket No. W-354, Sub 360. CWSNC filed its general rate case application on April 27, 2018.

Piedmont argued that the flow back of EDIT should not be automatic, rather the Commission should consider all matters that could affect rates. Piedmont stated that the Tax Act represents a unique opportunity to deliver savings to customers, but as with all ratemaking actions, the long term and short term interests of customers must be balanced.

Piedmont maintained that for EDIT, the Company will establish a regulatory liability and, similar to the Commission's treatment of EDIT in Docket No. M-100, Sub 138, would propose that those liabilities be addressed in the Company's next general rate case proceeding. Piedmont also noted that a significant portion of the EDIT resulting from the federal income tax rate change will be subject to normalization restrictions.

PSNC stated that the reduction in the federal corporate income tax rate from 35% to 21% will result in EDIT. PSNC stated that it proposes, and requests Commission approval, to record the adjustment to deferred taxes as a regulatory liability that will result in no net change in rate base until amortization of the liability begins. PSNC maintained that in accordance with Financial Accounting Standards Board requirements, the adjustments to deferred taxes will be grossed up to a pre-tax amount when recorded in a regulatory liability. PSNC noted that it proposes that the amortization of the regulatory liability be addressed in PSNC's next general rate case.

The Commission notes that in the generic rulemaking proceeding established by the Commission to address the recent changes in the State corporate income tax rate (Docket No. M-100, Sub 138), the Commission concluded that EDIT for all utilities, as appropriate, were to be held in a deferred tax regulatory liability account until they could be amortized as reductions to income tax expense for ratemaking purposes in each utility's next general rate case proceeding. The Commission stated that it agreed with PSNC Energy's comments in that docket that recognizing the amortization of the EDIT in the next general rate case of a utility would provide for certainty as to the amount to be amortized instead of having to base the flow-back calculation on an estimate. In that proceeding, no party objected to that option of handling the EDIT. And the Commission notes that that process has worked well and customers received or are receiving EDIT related to the State corporate income tax rate changes.

Further, the Commission notes that in the Commission's 1986 federal corporate income tax law change generic rulemaking proceeding (Docket No. M-100, Sub 113), the Commission concluded in its October 20, 1987 Order to Require Filing of Tariffs to Reduce Rates and Refund Plans to Effect Flow Through of Tax Savings for Those Regulated Companies not covered by Specific Orders on This Matter, as follows: "[t]hat the appropriate amortization of accumulated excess deferred income taxes will be considered in each company's next general rate case or such other proceeding as the Commission may determine to be appropriate. Any additional amounts relating to the adjustment that should have been made by the company for the flow back of excess deferred income taxes shall be placed in a deferred account and should ultimately be refunded to ratepayers with interest."

In this current proceeding, DEC and DEP noted that all EDIT amounts are by necessity estimated, pending completion of each Company's federal income tax return in 2019 for tax year 2018, and DENC stated that its EDIT estimated amount would be further refined throughout 2018 as more detailed analysis is completed and needed guidance from the IRS is forthcoming.

In addition, the Commission finds, based on the comments filed, that it is appropriate to minimize the rate volatility that could occur with implementing all of the impacts of the Tax Act immediately. Therefore, the Commission concludes that the appropriate balancing includes a base rate adjustment now for the expense piece as discussed above in Issue No. 1 and a reasonable delay, with interest, in the adjustments required to reflect the EDIT generated due to the Tax Act.

Further, the Commission concludes, based on the concerns expressed by DEC, DEP, and Piedmont, that a reasonable delay in the return of the EDIT will help minimize any potential unfavorable credit quality impacts of the Tax Act on the utilities.

Therefore, based on the precedent set in both Docket No. M-100, Sub 113, which precedent includes a review and opinion by the North Carolina Supreme Court in Nantahala, and Docket No. M-100, Sub 138, and the current uncertainty of the ultimate EDIT balances due to the Tax Act, and in an effort to minimize rate volatility and potential adverse credit quality impacts, the Commission finds that it is reasonable and appropriate to address the ratemaking treatment of EDIT in each utility's next general rate case proceeding or three years from the date of this Order, whichever is sooner. The Commission further finds that the EDIT shall be returned to customers with interest reflected at the overall weighted cost of capital approved in each Company's last general rate case proceeding. Thus, EDIT for Cardinal, DENC, DEP, Piedmont, and PSNC shall continue to be held in a regulatory liability account until each Company's next general rate case proceeding or for three years, whichever is sooner, and should ultimately be refunded to ratepayers with interest. Based on this decision, the utilities do not maintain EDIT as cost-free capital as asserted by the Attorney General. Further, EDIT for Aqua and CWSNC will be addressed in each Company's currently pending rate case proceeding (Docket No. W-218, Sub 497 for Aqua and Docket No. W-354, Sub 360 for CWSNC). EDIT for DEC was addressed by the Commission's June 22, 2018 and July 2, 2018 Orders in DEC's rate case proceeding (Docket No. E-7, Sub 1146).

Finally, the Commission finds it appropriate, once rates are established, to require the affected utilities to file quarterly reports in the appropriate newly-established, Company-specific docket, due no later than 30 days after the end of a quarter, on the status of their EDIT deferred account, and the deferral account established under this proceeding that represents the difference between revenues billed under the prior federal corporate income tax rate and the federal corporate income tax rate resulting from the Tax Act starting January 1, 2018. DEC shall also be required within the context of this Order in this docket to file the quarterly reports.

Issue No. 3 – How should the Commission proceed in recognition of the fact that CIAC for water and wastewater companies is now subject to federal income taxes based on the Tax Act?

CWSNC recommended that the Commission consider the impact of the Tax Act upon CIAC. CWSNC noted that the Tax Act removes the tax exemption for CIAC and thus, effective January 1, 2018, water and wastewater utilities like CWSNC will have to begin paying income taxes on cash and property CIAC they receive. CWSNC argued that this change will negatively affect CWSNC's opportunity to earn a reasonable return on its property used and useful in public service if the Company is not allowed to collect the appropriate tax on the CIAC received. CWSNC noted that it will immediately seek to collect from developers (and others) who transfer property and cash to the Company as CIAC based upon the new treatment under the Tax Act; however, there may be some amounts that are not collected as a result of the timing of the tax reform change. CWSNC also noted that it does not believe that collection of this tax resulting from a change in the federal tax law requires any modification to its tariff; however, if the Commission believes state law mandates such a change, CWSNC requested clarification and immediate authorization to collect the taxes in the interim.

The Public Staff stated in its reply comments that the change in the taxable status of CIAC under the Tax Act could have a significant impact on water and wastewater companies in that contributed plant is a significant portion of the plant additions by these companies. The Public Staff recommended that the Commission open a new docket to address the implications of the inclusion of CIAC in taxable income for water and wastewater companies.

The Public Staff further recommended that the treatment of CIAC should follow the precedent established in Docket No. M-100, Sub 113, and that water and wastewater companies should seek to collect the income tax on CIAC from the contributor using the full gross-up method. The Public Staff recommended that the Commission allow individual companies seeking to use the present value method to do so with prior approval by the Commission. The Public Staff recommended that in opening a new docket, the Commission should provide notice of this change to all water and wastewater companies, not just the utilities subject to this docket[20], and direct those companies to seek to collect the income tax on CIAC from contributors of plant for new contributions contracted for on or after the date of the opening of that new docket.

The Commission concludes based on the comments filed that it is appropriate to open a generic water docket, Docket No. W-100, Sub 57, to consider the new tax status of CIAC under the Tax Act. The Commission is issuing an Order contemporaneously with this Order to open the new generic water docket. Therefore, any further consideration of this issue will be addressed in Docket No. W-100, Sub 57.

[20] In its January 3, 2018 Order in this docket, the Commission excluded water and wastewater companies with $250,000 or less in annual operating revenues from participation in this proceeding.

Issue No. 4 – How should the Commission address the change in the federal corporate income tax rate in the various riders in effect?

DEC/DEP stated that they expect there may be additional benefits for customers through reduced rider rates, which will be handled in the respective annual rider filings and experience modification factors.

DENC noted that in addition to the Company's base non-fuel rate cost of service, the Tax Act impacts the Company's Rider EDIT, as approved in the Company's 2016 Base Rate Case Order. DENC noted that Rider EDIT is a decrement rider that refunds to customers over a two-year period, commencing on November 1, 2016 through October 31, 2018, a regulatory liability for EDIT associated with recent reductions in the North Carolina corporate income tax rate. DENC noted that the regulatory liability approved by the Commission was calculated using a tax gross-up factor that included a 35% federal income tax rate in effect prior to the enactment of the Tax Act. DENC maintained that beginning January 1, 2018, the federal corporate income tax component of the tax gross-up factor will be reduced from 35% to 21% pursuant to the Tax Act. DENC provided as Attachment 1 to its initial comments a schedule showing the reduction in the regulatory liability and the associated reduction to the Rider EDIT credit of $1.4 million for the period January 1, 2018 through October 31, 2018 due to the change in the tax gross-up factor.

DENC further noted that for the Company's rates and charges with approved deferral accounting and experience modification factors (i.e., fuel factor, DSM/EE, and REPS riders), the Company proposes to defer any differences between rates in effect at January 1, 2018, including any provisional components, and revenues that would have been billed incorporating the IRC as now amended by the Tax Act, through the ordinary deferral accounting process. DENC noted that any such differences will be addressed in future annual rider proceedings where applicable.

The Public Staff asserted that the rates for riders should be reduced in each subject utility's respective annual rider filings to reflect the reduction in the federal corporate income tax rate.

The Commission notes that all of the parties that commented on this issue agree that the Commission should address the reduction in the federal corporate income tax rate in the various riders for the utilities in each Company's next annual rider proceedings. Further, as noted by DENC, its State tax Rider EDIT established in its last general rate case was calculated using a 35% federal corporate income tax rate. The Commission finds it appropriate to request the Public Staff to work with DENC to determine the impact, if any, to DENC's State Tax Rider EDIT and file a recommendation with the Commission on how the Commission should address the decrease in the federal corporate income tax rate on DENC's State Tax Rider EDIT.

IT IS, THEREFORE, ORDERED as follows:

1. That, for the specific reasons outlined in this Order, it is not appropriate to adjust the base rates of Aqua, CWSNC, DEC, Frontier, or Toccoa in this generic rulemaking proceeding due to the reduction in the federal corporate income tax rate to 21% as enacted in the Tax Act.

2. That Cardinal, DENC, DEP, Piedmont, and PSNC are hereby required to adjust their base rates to reflect the reduction in the federal corporate income tax rate to 21% for taxable years beginning after December 31, 2017, as outlined in the Tax Act. PSNC's adjusted base rates should also include the necessary correction to appropriately reflect the 3% State corporate income tax rate.

3. That the following dockets are hereby created to accept Company-specific filings made pursuant to this Order:

DEC	Docket No. E-7, Sub 1184
DEP	Docket No. E-2, Sub 1188
DENC	Docket No. E-22, Sub 560
Piedmont	Docket No. G-9, Sub 731
PSNC	Docket No. G-5, Sub 595
Cardinal	Docket No. G-39, Sub 42

4. That Cardinal, DENC, DEP, Piedmont, and PSNC shall file proposals in the appropriate newly-created, Company-specific docket, including all supporting workpapers, to adjust their rates to reflect the reduction in the federal corporate income tax rate to 21% for taxable years beginning after December 31, 2017, as outlined in the Tax Act by no later than Thursday, October 25, 2018. The Public Staff is requested to file comments on the proposals by no later than Wednesday, November 14, 2018. Other parties also may file comments on the proposals by no later than Wednesday, November 14, 2018.

5. That Cardinal, DENC, DEC, DEP, Piedmont, and PSNC shall continue to hold in a deferred regulatory liability account the difference between revenues billed under the prior federal corporate income tax rate and the federal corporate income tax rate resulting from the Tax Act starting January 1, 2018 as previously ordered in the Commission's January 3, 2018 Order and the disposition of such regulatory liability will be considered in each utility's next general rate case proceeding or in three years, whichever is sooner. Therefore, the Commission concludes that if Cardinal, DENC, DEC, DEP, Piedmont or PSNC have not filed an application for a general rate case proceeding by October 5, 2021, each Company shall file its proposal by that date to flow back to its ratepayers the difference between revenues billed under the prior federal corporate income tax rate and the federal corporate income tax rate resulting from the Tax Act starting January 1, 2018 as previously ordered in the Commission's January 3, 2018 Order. The proposal should include all workpapers that support the proposed calculations. The Public Staff is specifically requested to file comments on the proposal by no later than

October 25, 2021. Other parties also may file comments on the proposal by no later than October 25, 2021. DEC is included in this decision because the issue of how to handle the provisional amounts collected since January 1, 2018 based on rates reflecting the 35% federal corporate income tax rate was not addressed in DEC's most recent rate case proceeding. These amounts will ultimately be returned to customers with interest reflected at the overall weighted cost of capital approved in each Company's last general rate case proceeding.

6. That excess deferred income taxes related to the decrease in the federal corporate income tax rate to 21% under the Tax Act for Cardinal, DENC, DEP, Piedmont, and PSNC, as appropriate, shall be held in a deferred tax regulatory liability account until they can be addressed for ratemaking purposes in each utility's next general rate case proceeding or in three years, whichever is sooner. These amounts will ultimately be returned to customers with interest reflected at the overall weighted cost of capital approved in each Company's last general rate case proceeding. Therefore, the Commission concludes that if Cardinal, DENC, DEP, Piedmont or PSNC have not filed an application for a general rate case proceeding by October 5, 2021, each Company shall file its proposal by that date to flow back to its ratepayers both the protected and the unprotected EDIT generated due to the Tax Act. The federal EDIT flow back proposal should include all workpapers that support the proposed calculations. The Public Staff is specifically requested to file comments on the proposal by no later than October 25, 2021. Other parties also may file comments on the proposal by no later than October 25, 2021. These utilities are hereby required to maintain the deferred tax regulatory liability account previously established and shall not begin amortization of amounts recorded in such accounts pending further order of the Commission.

7. That excess deferred income taxes related to the decrease in the federal corporate income tax rate to 21% under the Tax Act for Aqua, CWSNC, and DEC will be or have been addressed in each Company's pending/recent general rate case proceeding.

8. That, once rates are established, the affected utilities (including DEC) shall file quarterly reports in the appropriate newly-created, Company specific docket, due no later than 30 days after the end of a quarter, on the status of their EDIT deferred account, and the deferral account established under this proceeding that represents the difference between revenues billed under the prior federal corporate income tax rate and the federal corporate income tax rate resulting from the Tax Act starting January 1, 2018.

9. That the issue of the change in tax status of CIAC for water and wastewater public utilities under the Tax Act will be addressed in a separate proceeding, Docket No. W-100, Sub 57.

10. That the reduction in the federal corporate income tax rate reflected in the various riders for the utilities shall be addressed in each Company's next annual rider proceedings.

11. That the Public Staff is requested to work with DENC to determine the impact, if any, to DENC's State Tax Rider EDIT due to the Tax Act and to file a recommendation with the Commission on how the Commission should address the decrease in the federal corporate income tax rate on DENC's State Tax Rider EDIT by no later than Friday, November 2, 2018.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of October, 2018.

NORTH CAROLINA UTILITIES COMMISSION

Janice H. Fulmore, Deputy Clerk